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Proceedings

House of Repr., Report 1–53

THIRD SESSION, FORTY-FIRST CONGRESS.

REPORTS OF THE COMMITTEES

OF

THE HOUSE OF REPRESENTATIVES.

1870-'71.

IN ONE VOLUME.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1871.

BIBLIOTHECA
REGIA
MONACENSIS

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TO THE

REPORTS OF COMMITTEES

OF THE

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MADE DURING THE

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41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1.

TELEGRAPH BETWEEN UNITED STATES AND FOREIGN COUNTRIES.

[To accompany bill H. R. No. 2591.]

DECEMBER 21, 1870.—Ordered to be printed.

Mr. WOOD, from the Committee on Foreign Affairs, made the following

REPORT.

The Committee on Foreign Affairs, to which was referred that portion of the President's message relating to the French Atlantic cable, and also a resolution passed by the House on the 10th December, 1869, directing the committee to inquire into and report the conditions by which the so-called French Atlantic Cable Company holds the concession of the government of France to connect their cable with the French shore, and whether there are any restrictions or reservations in said concession which are prejudicial to the rights of the Government of the United States, or to the people thereof, and also any further information relating thereto, and which affect ocean telegraphing, together with such recommendations in the premises as, in the judgment of the committee, may be required, have had the same under consideration, and beg leave to report:

That the question of interoceanic connection by telegraph has become one of vast importance, not only as an agency designed to effect extraordinary changes in the commercial relations of maritime countries, but as establishing new and more liberal rules of international intercourse between governments themselves, in times of peace as well as of war. The progress made by the world within the past thirty years, in the increased facilities afforded for the greater exchange of commodities, and the more rapid interchange of intelligence through the instrumentality of the inland telegraph, the rail, and the press, has accomplished more for the elevation of humanity and the security of individual freedom than the previous five hundred years had done. As between the people of the same nation the change for the better from these causes has been wonderful, and when extended to the people and governments of different, but connected nations, the effect has been equally beneficial. The rapid progress in Europe to a more enlightened policy in dealing with each other, and an enlargement of commercial relations, may be mainly attributed to these influences. But when the same great principle is extended so as to bring nations which are separated by thousands of miles of ocean into intermediate intercourse, an equally surprising result is effected. Thus may we confidently predict that through this means, within a short period, the whole Christian world will be brought within the influence of a universal family circle, comprehending all forms of government, and all religions and creeds, making up a vast community—one in everything that concerns political action, tariff regulations, coinage, currency, commerce, interchange of literature and the arts, material improvements, and in all the other agencies by which the

world is moving onward to a higher destiny, and a more catholic spirit of fraternal accord. It is with this view of the magnitude of the importance of ocean cables, not only as to the United States, but the world, that the committee approach the consideration of the subject immediately referred to it.

Ocean marine cables are of comparatively recent construction. Within the last decade the first was laid between America and England, under American enterprise and with American supervision. Though this remarkable attempt was for a time frustrated by physical difficulties, yet the energy and mental power of our own countrymen, aided by foreign capital, surmounted them, and accomplished a result destined to be considered in history as the pioneer in this new agency of progress. Since then many other cables have been projected, and several have been laid.

Besides the French cable there are others of less extent, and some of equal extent, in the course of construction. The China Submarine Telegraph Company of England, in connection with other like companies, with European East India cables, have just undertaken an extension of connected cable to the empire of China. An even greater enterprise has just been accomplished by the laying of a cable between Suez and Bombay, a distance of thirty-six hundred nautical miles. This line connects with the present Alexandria and Malta line, which again connects with the continent, and forms a united link of telegraphic connection between England and her East India possessions. The first dispatch by this line was received in London on the 28th day of February last. Still another project is being industriously prosecuted, of connecting the north of Europe across to Eastern Russia, through European Russia to the east, overland from that point. This is under the direction of a Danish company, operating under the subsidy and protection of the government of Russia. Several other companies are being formed which, if successful, will, with those already existing and projected, lay cables which will engirdle the globe, so that no obstruction of "hill or dale, ocean or mountain," will intervene to prevent the free and regular connection of the people of the world with each other, from the nearest to the most distant parts. The history of the French cable is briefly as follows: On the 23d June, 1868, the government of France, through the director general, approved by the minister of the interior, issued *cahier des charges* for the establishment of a submarine line of telegraph between France and the United States. As the conditions and reservations of this paper form the basis and conditions of the concession of the government of France to the present company, it is sufficiently important to state it entire:

"Cahier des charges" for the establishment of a submarine line of telegraph between France and the United States of North America.

The concession of a sub-marine line of telegraph between France and the United States of America will be made at the office of the director general of telegraph lines on the 6th July, 1868, at 2 o'clock in the afternoon, to the persons whose tender shall offer the greatest reduction on the term of twenty years, mentioned in the second article of the present "*cahier des charges*," and upon the tariff of 100 francs mentioned in the fourth article. The line will commence at Brest, and terminate at some point of the coast of the United States of America between Boston and New York. It will not touch, on its course, the territory of any foreign state, but may pass by St. Pierre, (Newfoundland,) French territory. It must be completed and in working order by the 1st of September, 1869.

2. The government engages not to grant other concessions for lines between France and North America during a maximum period of twenty years from the 1st of September, 1869.

3. The rules of the Telegraphic Convention of Paris, or of any other international conventions, which may be hereafter substituted for it, shall be adopted on this line.

4. The tariff for messages of twenty words, through the length of the cable, shall not exceed 100 francs.

5. This tariff shall be reduced by one-half for government dispatches, which shall have precedence.

6. The government reserves to itself the right of establishing, at the expense of the concessionaires, such control over the service of the line as it may judge convenient. For this purpose the service of the line shall have its office in one of the rooms belonging to the telegraph office of Brest, the rent of which room shall be repaid to the state by the concessionaires. The clerks of the telegraph office of the state shall be the indispensable intermediaries between the public and the agents of the concessionaires in the transmission of messages. The messages received by the cable shall be immediately handed to them, and be delivered through their agency. The messages to be transmitted by the cable shall in like manner be lodged with them, and handed by them to the agents of the concessionaires.

7. The company which will be formed by the concessionaires cannot amalgamate with any other company, whether French or foreign, having a concession for a transatlantic cable, nor transfer or lease its line, without permission from the government.

8. If during the duration of the concession one cable shall become insufficient, by reason of the traffic, or from any other cause, the concessionaires shall be bound to lay down a second within eighteen months after notice given to them by the administration, unless they prefer to renounce the privilege belonging to them according to article two, of the present "*cahier des charges.*" In this latter case they shall make known their decision within three months from the above-mentioned notice. The course above stated will be followed with reference to all other supplementary cables which may have to be laid.

9. If during the duration of the concession, telegraphic communication shall be interrupted for a consecutive period of eighteen months, the privilege granted in favor of the concessionaires shall, *ipso facto*, cease, and the government shall resume the right of granting such other concessions as it may desire.

10. No one shall be admitted to tender without being previously approved by the minister of the interior, and unless he has paid at the "*caisse des dépôts et consignations*" at Paris, caution money to the amount of 500,000 francs. The parties tendering shall prove the payment of this caution money by annexing to their tender a certificate issued by the "*caisse des dépôts et consignations.*"

11. The concessionaires shall be bound to prove, between this date and the 15th of September next, the legal constitution of their company, with a capital of 27,500,000 francs, and also the subscription for the whole of the shares, amounting to this capital. In default of their fulfilling this condition, their caution money shall belong to the state, and the concession annulled. In case the concessionaires, after having made *studiés*, should find this sum insufficient, they will be allowed to increase the capital to the sum of 40,000,000 francs.

12. An agent of the administration of telegraph lines shall be admitted to the factory where the transatlantic cable will be made, as often as the administration may demand it of the concessionaires. The administration may also commission one of its agents to examine, when finished and put on board, the cable. The cost of this inspection shall be borne by the concessionaires.

13. The caution money paid by the concessionaires shall be repaid when the cable is complete and put on board ready to be submerged, and shall be acknowledged to be in good condition by the administration.

14. The non-compliance by the concessionaires with any of the articles of the *cahier des charges*, involves, *ipso facto*, withdrawal of concession.

15. The tenders, which must be written on stamped paper and in accordance with the form below, must not contain any restriction or reserve on pain of nullity. They shall contain an election by the concessionaires of a domicile at Paris for all acts relative to the concession. The tenders, inclosed under envelope sealed with wax, shall be put in the hands of the director general of telegraph lines at the time of adjudication. In case any tender is signed by procuration, the person signing shall annex a notarial copy of his power of attorney. Tenders made by telegraph will not be accepted. If none of the offers are below the figures fixed in articles two and four, the competitors may be admitted then and there to make fresh offers: these fresh offers shall be written at the foot of their tenders, and set forth in the *procès verbal.*

16. Reductions on the maximum tariff of messages can only be of five francs, or multiples of five francs. Reduction in the duration of the concession can only be for one or more years, without fraction. A reduction of one year will be considered equivalent to a reduction of five francs.

17. Any dispute which may arise between the concessionaires and the government on the subject of the execution or of the interpretation of the present *cahier des charges*,

shall be decided administratively by the council of the prefect of the department of the Seine, with appeal to the council of state.

18. The stamp duty and the fixed registration duty shall be borne by the concessionaires.

PARIS, 23*d June*, 1868.

Approved:

The Director General,
VISCOUNT H. de VOUGY.
Minister of the Interior,
PINARD.

The following official announcement gives the result of bidding and the awarding of the concession:

PROCÈS VERBAL—MINISTRY OF THE INTERIOR—GENERAL DIRECTOR OF TELEGRAPHS.

Procès verbal of the concession of a transatlantic cable between France and the United States of North America.

THE 6TH OF JULY, 1868, *at 2 o'clock p. m.*

In conformity with the decision of his excellency the minister of the interior, dated 23d June, 1868, the director general of telegraphs, assisted by MM. Baron Amiot, inspector general, Raymond, inspector, and G. Saubussire, sub-inspector secretary, proceeded to the concession of a submarine telegraph line between France and the United States of North America. The proceedings were opened at two o'clock; one tender only was placed in the hands of the director general, and opened at five minutes past two. The Baron Erlanger and Mr. Julius Reuter, the parties tendering, engaged to complete the submarine communication on condition of obtaining an exclusive privilege for twenty years, and fixing the maximum tariff applicable to messages of twenty words at 100 francs. They further engage to fulfill all the clauses and conditions of the *cahier des charges* drawn up on the 23d June, by his excellency the minister of the interior. Annexed to their tender was a receipt from the "*caisse des dépôts et consignations*," showing the payment made by them of the caution money of 500,000 francs, required by the tenth article of the "*cahier des charges*." The Baron Emile d' Erlanger and Mr. Julius Reuter, having complied with all the conditions fixed by the "*cahier des charges*," are declared concessionaires. Their tender remains annexed to the present "*procès verbal*," which will be submitted for approval to his excellency the minister of the interior.

Done at Paris the day, month, and year above stated.

The Director General,
VISCOUNT H. de VOUGY.
The Inspector General,
BARON AMIOT.
The Inspector General,
RAYMOND.

On the 31st of July, 1868, Messrs. Erlanger and Reuter purchased of Charles Harvard and Charles Christian Leigh, of the city of New York, certain authority, derived by act of the legislature of the State of New York, granting to William Orton, C. C. Leigh, and Charles Harvard an exclusive right to lay telegraphic cables from that State to the empire of France. For this privilege $30,000 were paid in gold. It appears that Messrs. Orton & Co. had effected the passage of the acts through the legislature of New York under a promise to lay a submarine cable, and the legislature not doubting the good faith of those parties the franchise was granted without hesitation. It seems, however, that this was not done, and the privileges so obtained were put into the market for sale, and the grant was sold to the concessionaires of the French cable, who, attaching importance to the supposed privileges of these acts, actually paid for them the enormous sum stated. Subsequently it was discovered that another point of connection in the United States afforded better facilities, and Massachusetts and the present terminus was selected. The next step was the formation of the French company, under the title of the "Societe du Cable Transatlantique Française,"

with a capital of £1,200,000, its principal place of business, London, its first president being Robert Lowe, M. P., the present chancellor of the exchequer of England. The concession from the French government, under which this company was formed, bears date of the 6th July, 1868, and the company was incorporated on the 10th of August of the same year. It is of some importance, in this connection, to state that at that time the only law on the statute-books of the United States for the regulation of telegraphic intercourse was the general act of 1866, which provides that telegraphic communication may be established freely in and over the waters of the United States by any company organized under the laws of any State in the Union. Indeed, down to the present moment, there is no other law of a general bearing on the subject in existence in this country. The rumor, however, of the enterprise upon which the French Cable Company was about to embark caused the introduction into Congress of various measures, framed with a view to the establishment of a special code of regulations affecting ocean cables. These propositions finally assumed the form of a bill, presented to the Senate on the 3d February, 1869. This bill was called up the 2d March, when, in the press of business incidental to the impending dissolution of Congress, it passed the Senate hurriedly, and without any discussion whatever, but it failed to be reached in the House of Representatives before adjournment. On the 11th of March it was reintroduced, and, although called up on more than one occasion, it failed, after discussion, to pass the Senate previous to the adjournment of Congress in April last. In the meantime, assuming that this bill represented the feelings of Congress on the subject, the Secretary of State, on the 10th of July, 1869, addressed a letter to the British minister and the French *chargé d'affaires*, inclosing a copy of the bill, and intimating that the Government of the United States considered that this bill announced the probable policy and purpose of Congress in the premises. This had the effect of drawing from the agent of the French Company in the United States a letter agreeing, on behalf of the company, to abide by whatever enactment Congress should see fit to pass. This is the present position of the matter.

The grounds upon which the concession of the government of France to the French Cable Company is opposed in the United States are—

First. That it imparts an exclusive privilege for twenty years.

Second. That that government reserves the right to exercise a supervision over all messages that may be transmitted. With these objections it is difficult to be reconciled. The United States exercises a spirit of equal and exact justice in its intercourse with nations. It asks nothing but what is right, and will consent to nothing that is wrong. It is quite willing to concede, but must have concession in return. There must be entire and cordial reciprocity. Of the right to lay an Atlantic cable to connect France and the United States, by an American citizen, we cannot be denied. If a French or English company is allowed to connect a French or English cable with our shores, so do we *insist* that the same privilege shall be extended to our citizens, if any such desire to connect any American cable to their shores. On this ground of reciprocity we shall stand with firmness and unyielding determination. With reference to the reserved rights of the government of France to inspect the dispatches which pass over the French cables, there is much to be said on both sides. It has been stated that this right extends to the absolute censorship of all matter, and that the government holds under surveillance, for purposes of examination, every dispatch that passes over the cable from this country. To this charge

the French government has caused the following explanation to be given:

OFFICE OF THE DIRECTOR GENERAL OF TELEGRAPH LINES,
Paris, December 31, 1869.

The message of the President of the United States to Congress contains a part relative to the French transatlantic cable, which this administration considers it a duty to correct. It states, in substance, that according to the terms of concession, dispatches from America transmitted by that route are subject to control and examination of the French government. This administration exercises no control of that nature from America, or from any other quarter, but it is their duty to see that messages are transmitted over the cable in the order of their reception at Brest, and that there is no favoritism in this respect. It must also, on account of the telegraphic monopoly held by the government, see that no dispatches are clandestinely introduced upon the line, and so avoid a tax which legitimately accrues to the state. Its aim is at once to protect the interests of the public and the treasury. Finally, the conditions under which this department exercises control over the business of the line are without political intention. Its subordinate employés are charged with the task, and their duty is restricted to the verification of ciphers, such as the signals of time and place of filing and of re-forwarding, and the number of words which form the basis for the application of the government tax. Again, most of the dispatches, particularly those destined for Nantes, Bordeaux, Tours, and Toulouse, arrive at their destination without passing through Paris, and the same is true with correspondence addressed to England and Spain, such messages being transmitted direct from Brest to London.

According to this, the object of the government, in exercising its control, is for the benefit of the public, in preventing favoritism in the order of sending messages, and to secure the payment of the tax. These are proper motives, and if confined to them, would not be objected to. But the spirit and letter of the official conditions, on which the concession to the company was granted, still remain, and go much further than this. How far the government may exercise its reserved right is another question. We take exception to the fact that any such authority should rest anywhere, especially in the hands of those who may in time of war, or at any other moment, choose to place, not only the dispatches of our Government, but of all others, under official inspection. The director general in this note confines himself simply to the declaration that he does not exercise a "control of that nature." This may be true as far as the present time is concerned, but the power to do so exists, and we have no security that it may not be exercised hereafter, either by him or some successor. The people of the United States will tolerate no such right, whether in its own Government or of any other. Official curiosity or interference in the affairs of private life is in violation of the fundamental principle on which rests our political fabric. It may be proper to state that in France, as well as throughout Europe, all telegraphing is under the exclusive control and direction of officials. All the lines have become government property, and are worked by government agents. England has at last come into this system, that government having recently purchased the lines which were established by private capital. So important has become this means of intercommunication, international conventions have been recently held, in which all the continental nations have been represented. It was found that obstructions and difficulties were constantly arising, and that some general rules should be agreed on. A convention for this purpose was held at Paris, 17th May, 1865, and another, which was organized more thoroughly, at Vienna, 21st July, 1868. The objects accomplished by these conventions have been to settle, internationally, all the various questions which naturally arise in the management and conduct of telegraphy. Therefore, in considering this question with reference to the European connections of American ocean cables, we must bear in mind that throughout Europe all commu-

nication by telegraph is under the government eye. It is not in France alone that this is the case. It is equally so now in England. No cable can be laid between our own coast and that of France by which we could avoid or be exempt from like difficulties. Our messages may reach the shore, but on their way to the interior they would, of necessity, pass through the official lines, and be subjected to their rules and authority. Thus, though we had twenty American lines, our control over the dispatches forwarded by them would cease when reaching the foreign shore. All dispatches sent to the continent by the English Atlantic cable are liable to the same objection. When they reach England they must be transmitted by other lines, and when leaving England and entering France they are at once subjected to the same constraint as other dispatches. Thus, the two existing Atlantic cables are precisely on the same footing, so far as their official inspectorship is concerned. Throughout Europe the telegraph is as much a matter of official regulation as is the post office or any other department of government. The government owns and works it. Nor can we complain of this. Every nation has a right to regulate its own internal affairs. It is a well-settled principle of international law, that these are matters with which other nations have no right to interfere. They are internal regulations over which each people have sole and entire authority. It is under this rule that the United States can and should stand, with reference to the same question as affecting ocean cables.

While we cannot exercise the same supervision over intelligence conveyed to our shores by cables of foreign construction and ownership that France assumes in this case, because it would be inconsistent with our institutions, nevertheless we have a right, and should exercise it, of asking that all cable companies connecting with the American coast shall secure to the Government, as well as to the persons of the United States, similar exemption from inspection or interference with messages transmitted from this end, until reaching the place of destination. The Secretary of State is entitled to much credit for having already taken steps toward the removal of difficulties which have arisen from these causes. The recent breaking of the Cuban cables, and the pending difficulty with the French cable, has probably suggested the necessity of establishing, by convention, some general regulations on principles of reciprocity and neutrality. On the 18th November, 1869, the Secretary of State addressed to our ministers and consuls abroad instructions looking to the formation of conventions for these objects. It cannot be doubted that the principal nations of Europe will see the necessity and propriety of meeting in a friendly spirit this intelligent proposition. There is reason to believe that France and England will speedily accept and ratify conventions looking to this end; meanwhile no short-sighted policy should be adopted to affect, injuriously, existing cables. It is the duty of Congress and the Executive to foster and facilitate all enterprises of this character. We have too much at stake to allow any matter of mere pride or prejudice to interfere with public enterprises of such vast commercial and political importance to ourselves. It is our duty, in view of the interests involved, to extend liberal encouragement to ocean telegraphing. While we should adopt a general law governing the conduct of all cables, in which the interests of the people and the Government should be alike protected, we should also impose no conditions which will impair their efficacy or render unprofitable the capital which such daring enterprise has invested. Of all species of speculation, that of laying ocean cables is the most insecure. It is subjected to more hazards than any other, and should be made to yield a speedier

and larger return in consequence. The success of the French Cable Company is a rare accomplishment of energy, capital, and intelligence. It is the work of individuals, without any governmental aid whatever. Starting with the opposition of a powerful rival in the other Atlantic cable, it reached a successful accomplishment without delay or accident. It is in the enjoyment of no subsidy or governmental favors, and has no property or advantage not the result of purchases by the money contributed altogether and entirely by its stockholders. The Atlantic Telegraph Company, on the other hand, has received immense favors. From Newfoundland their company acquired money and lands of great value. The privileges granted constitute a monopoly of telegraphic rights in Newfoundland, the value of which was enhanced afterward by similar concessions from the State of Maine, Nova Scotia, Prince Edward Island, and liberal encouragement from Canada.

By their chartered rights the company obtained the exclusive privilege for fifty years of landing cables on Newfoundland and Labrador, which embraces a coast, extending southward to Prince Edward Island, Cape Breton, Nova Scotia, and the State of Maine, and their respective dependencies, and westwardly to the very entrance of Hudson's Straits. The company also secured a grant of fifty square miles of land, on the completion of telegraph to Cape Breton; a similar concession of additional fifty square miles, when the cable shall have been laid between Ireland and Newfoundland; a guarantee of interest for twenty years, at five per cent., on £50,000; a grant of £5,000 in money, toward building a road along the line of telegraph; and the remission of duties on the importation of all wires and materials for the use of the company. The company also obtained from the legislature of Prince Edward Island, in May 1854, the exclusive privilege for fifty years of landing cables on the coast, a free grant of one thousand acres of land, and a grant of £300 currency, per annum, for ten years. From Canada the company obtained an act authorizing the building of telegraphic lines throughout the provinces, accompanied by the remission of duties on all wires and materials imported for its use. Nova Scotia, in 1859, gave the company a grant of exclusive privilege, for twenty-five years, of landing telegraphic cables from Europe on the shore of the province. The State of Maine accorded the company a grant of exclusive privilege for twenty-five years of landing European telegraphic cables on the seaboard. From Great Britain, eventually, the company obtained an annual subsidy of £14,000 sterling, until the net profits of the company should reach six per cent. per annum on the whole capital of £350,000 sterling, the grant to be then reduced to £10,000 sterling per annum for a period of twenty-five years; two of the largest steamships in the navy to lay the cable, and two steamers to aid them, and a careful examination of the soundings by vessels of the royal navy. From the United States the company obtained an annual subsidy of $70,000 until the net profits yielded six per cent. per annum, then to be reduced to $50,000 per annum for a period of twenty-five years, subject to termination of contract by Congress, after ten years, on giving one year's notice. The United States Government also granted the steamship Arctic to make soundings, and steamships Niagara and Susquehanna to assist in laying the cable. A Government steamer was also ordered to make further soundings on the coast of Newfoundland.

We do not refer to these various favors bestowed upon this company in disparagement of that great work, but as showing how high was estimated the advantages to result from the success of the enterprise. The French company has accomplished the same results with no outside

aid. It has gone on successfully, without a minute's delay, from the hour it was first opened to the public. It has improved the method and increased the efficiency of ocean telegraphing, and, what is of much interest to the people, it has compelled a reduction of one-half in the cost of transmission. Adopting a tariff of prices just fifty per cent. below that which was at that time charged by the other company, it forced that company to reduce its rates accordingly, where it now remains. There can be, therefore, no just grounds for the threatened discrimination against the French company, which is proposed, by legislation in the Senate. While a general law should be speedily adopted which shall affect all companies alike, it would be unwise and unjust to go back so as to reach injuriously either of the existing Atlantic or any other cables. Before completing, however, any legislation on the subject, Congress should consider fully the terms of the Vienna convention, containing regulations, as before stated, agreed upon by the European governments for the management of international telegraphing. It is desirable that any rules or provisions of law which Congress may adopt with reference to ocean cables connecting with Europe may be made with reference to the rules agreed on in those conventions; otherwise, a different system of administration would exist at either end, which would cause inconvenience and embarrassment to both. The ground urged for legislative enactment against the French cable, because France denies to the United States or its citizens the right to lay a cable to connect with the coast of France, is not tenable. That difficulty is likely to be of temporary existence. It is now quite well settled that France will reconsider the exclusive grant made to the concessionaires of the Franco-American cable. Besides the probabilities of the ratification of a convention between the two governments, by which neutrality and reciprocity will form the general basis, it is understood that the company itself is in negotiation with the French government for the relinquishment of the monopoly which their concession guarantees. So certain is the latter of these probabilities to be accomplished, that Congress would be quite safe in adopting a general bill, universally applicable, establishing the principles and rules by which all ocean cables shall hereafter be governed which has origin or terminus on our shores. The bill reported is universal in its application. It protects the Government of the United States as well as the people, and settles certain conditions upon which all privileges of this character shall be granted and by which the cables shall be conducted. It is altogether prospective in its character, thus avoiding not only the vicious system of retroactive legislation, but advertising in advance the rules under which all shall come hereafter. It has no provision inconsistent with the safety or security of the rights of the United States, nor with the regulations established by the Vienna convention, which will necessarily govern all dispatches from this country, transmitted by cable, when reaching the continent of Europe.

The bill reported by the committee, which accompanies this report, is designed to establish general regulations for the government of ocean cables, as well as to save time and trouble to those who desire the privilege of connecting them with the shores of the United States, by obtaining from Congress special permission. At present there are no provisions of law on the subject. The power of the States as to their rights in the premises is undetermined, whether by judicial construction or legislation. The committee have avoided in the bill presented any assumption upon the part of the federal Government of exclusive authority, granting only that which it indisputably possessed. The existing cable company has obtained State charters, and also federal

permission, either by Congress or from the Executive, but it is obvious that there should be established by Congress some general provisions of law which shall not only grant the privilege of laying cables, but which shall also regulate and declare the conditions and obligations upon which such permission is granted. An interest so great should be under central control, and the capital invested in cables should be under a protection sufficiently powerful to accomplish the object. Each of these ends is secured by the bill. The interests of the Government, of the people, and of the companies who lay the cables, are alike protected and secured. The committee have endeavored to accomplish these objects in the bill offered. All of which is respectfully submitted.

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41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 2.

APPORTIONMENT OF REPRESENTATIVES TO CONGRESS.

[To accompany bill H. R. No. 2587.]

JANUARY 10, 1871.—Ordered to be printed.

Mr. MERCUR, from the Committee on the Judiciary, made the following

REPORT.

The Committee on the Judiciary, to whom was referred H. R. 1823, *entitled "An act to provide for the apportionment of Representatives to Congress among the several States," with the Senate amendments thereto, having considered the same, respectfully report:*

That inasmuch as said bill was acted upon by each House of Congress prior to the taking of the ninth census, and with the object of having Representatives elected under it in the year eighteen hundred and seventy, many of its provisions have become useless and impracticable; yet the House of Representatives thereby indicated two hundred and seventy-five Representatives, and the Senate three hundred Representatives, as the number of which the House should be composed. Your committee have given due consideration to that fact. Believing, however, that three hundred Representatives (to be increased by the admission of new States) is a greater number than public policy now requires, we have concluded to report in favor of two hundred and eighty members, commencing with the Forty-third Congress. This number is arrived at by fixing upon 137,800 persons as the ratio, and also by giving an additional Representative to each State that has a fraction greater than one moiety of the said ratio.

Upon this basis, the only States whose representation will be lessened are New Hampshire and Vermont; each will lose one Representative. The States of Maine, Rhode Island, Connecticut, Delaware, Louisiana, Ohio, Florida, Oregon, West Virginia, Nevada, and Nebraska will each retain their present representation. The States of Massachusetts, New York, Maryland, Virginia, North Carolina, South Carolina, Alabama, Mississippi, Kentucky, Tennessee, Indiana, Arkansas, California, and Minnesota will each gain one over their present representation; the States of New Jersey, Pennsylvania, Georgia, Texas, Wisconsin, and Kansas, will each gain two; the States of Missouri, Michigan, and Iowa will each gain three; and the State of Illinois will gain four.

The number of Representatives to which each State will be entitled is shown by the bill which the committee herewith report as a substitute for the bill referred to them.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 3.

SHEAFE vs. TILLMAN.

JANUARY 10, 1871.—Laid on the table and ordered to be printed.

Mr. G. M. BROOKS, from the Committee of Elections, made the following

REPORT.

The Committee of Elections, to whom was referred the contested election case of C. A. Sheafe vs. Lewis Tillman, from the fourth congressional district of the State of Tennessee, submit the following report:

Before proceeding to a consideration of the merits of this case, a question, preliminary in its nature, first should be disposed of. The contestee in his answer claims that contestant did not serve notice of his intention to contest his seat within the time required by statute, and his specification is as follows:

First. Because contestant did not file his notice or deliver a copy of the same in time. Respondent's certificate is dated and was issued on the 31st of December, 1868; and contestant's notice, or a copy of it, was not served on or delivered to respondent until the 19th of February, 1869; more than thirty days after the date and issuance of the certificate to respondent.

The United States statute of February 19th, 1851, provides that—

"Whenever any person shall intend to contest an election he shall, within *thirty days* after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice in writing to the member whose seat he designs to contest," &c. (9 Stat. at Large, 568.)

To decide the question raised, it becomes necessary to ascertain at what time the result of the election in the fourth congressional district was determined by the officers "authorized by law to determine the same."

Section 880 of the Code of Tennessee, page 232, provides that—

The governor and secretary of state shall, as soon as the returns are received, in the presence of such electors as choose to attend, compare the vote in these several cases, (among others for members of Congress,) and declare the person receiving the highest number of votes duly elected.

From this provision it would seem that it was the intention of the law that the governor and the secretary of state should personally meet and, in the presence of such electors as choose to attend, make a comparison of the votes. From the evidence introduced, it does not appear that this requirement of the statute was ever complied with by a comparison of the votes by the governor and the secretary of state being personally present together and performing this duty. The secretary of state in October, 1869, testified that he had not seen the governor for nearly two years; that this provision of the code had been treated as only directory by the State officers, and was understood only to require a comparison of the duplicates which ought to be in each office, and that even this had never been done by the governor and secretary of state together to his knowledge. Without deciding the question

whether the above officers should personally compare the returns, unquestionably the governor and the secretary of state, by the code of Tennessee, constitute the officers referred to in the United States statute of February 19, 1851, above cited, and until they have made a comparison of the votes, and definitely and finally acted upon the matter, the result of the election cannot be determined in such manner as to bring a contestant within the provisions of the United States statute last above cited.

The testimony introduced, and upon which the contestee relies to show that the result of the election was determined on December 26, 1868, is embraced in the following correspondence:

SECRETARY OF STATE'S OFFICE,
Nashville, Tenn., December 21, 1868.

To his Excellency Gov. W. G. BROWNLOW, *Knoxville, Tenn.:*

DEAR SIR: At the request of Dr. Boynton, I herewith inclose to you the returns of the fourth congressional district, except Bedford county, which Mr. Tillman tells me is correct. The result from that county is, Tillman, 1,448; Sheafe, 1,046. After examining the returns, please return them to this office for future reference.

I am, very respectfully, &c.,

JESSE FRENCH, *Clerk.*

[Indorsed.]

KNOXVILLE, TENN., *December* 26, 1868.

Respectfully returned to the office of the secretary of state. I would throw out the vote of Lincoln county, as the election was held by order of the county court, and the returns made by the coroner; the law requiring elections to be held and returns made by the commissioner of registration. I would also throw out the vote in the civil districts of the counties of Coffee and Marshall, in which it appears that the judges of election had not taken the necessary oath, &c.

W. G. BROWNLOW.

The following is the reply of the secretary of state to the above letter of the governor:

SECRETARY OF STATE'S OFFICE,
Nashville, Tenn., January 6, 1869.

After a careful consideration of the law bearing upon the duty of the secretary of state, in the matter of election returns, I am satisfied that the officer has no voice in the settlement of such questions as are raised by the above indorsement of his excellency the governor.

The secretary of state being the proper custodian of one set of election returns, under section 879 of the code, and the governor being the custodian of another set, it is the duty of these two officers to compare these two sets of returns as soon as the returns are received. The only duty of the secretary is to produce the triplicate returns in his office when the governor produces his, and compare them with each other. This comparing determines who is elected.

By section 885, the governor shall "issue" and "deliver" the commission or certificate of election. The only business of the secretary is to countersign and seal this commission or certifiate, without regard to his own opinion in the case. It is not the intention of the law that the governor and secretary should constitute a board of canvassers to correct election returns. If there is any authority of this kind it is in the governor alone. These papers are, therefore, returned to the executive office for the official action of the governor.

A. J. FLETCHER,
Secretary of State.

It was in evidence that there appeared in the Knoxville Whig of the date of February 11, 1869, a paper purporting to be a proclamation of the governor, also dated February 11, 1869, in which he stated that he awarded the certificate of election to Lewis Tillman as the member to Congress from the fourth district in Tennessee. The secretary of state testified that some time after the date of the proclamation he countersigned the commission to Mr. Tillman, and that until then he did not know who would get the commission.

The committee is of the opinion that if the provisions of section 880 of the Code ever had been complied with, according to the construction given to the section by the secretary of state, yet there had been no such determination of result of the election as required by the United States statute of February 19, 1851, until after the issuance of the commission to the contestee after February 11, 1869, and therefore the notice, being given on February 15, 1869, was within the time required by statute. The committee also find that the commission was antedated.

The following counties constitute the fourth congressional district of the State of Tennessee, *i. e.*, Lincoln, Giles, Marshall, Cannon, Rutherford, Coffee, Franklin, and Bedford.

The returns from the several counties, as made by the commissioners of registration, and in the county of Lincoln by the coroner, are as follows:

	Tillman.	Sheafe.
Lincoln	5	554
Giles	561	609
Marshall	167	856
Cannon	313	171
Rutherford	957	839
Coffee	156	406
Franklin	248	110
Bedford	1,448	1,046
	3,855	4,591
It also appears that in the county of Franklin the following vote was cast, but rejected by the commissioners of registration as illegal	43	463
Making a total vote of	3,898	5,054
Deducting Tillman's from Sheafe's vote		3,898
Gives a majority to contestant of		1,156

REVISION BY THE GOVERNOR.

Upon a revision of the vote of the congressional district, made by the governor of Tennessee, as appears by a copy of his proclamation hereto annexed and marked A, the votes of a county and parts of other counties were thrown out, as follows:

	Tillman.	Sheafe.
The entire vote of the county of Lincoln—		
The whole vote of which was	5	554
The votes of districts numbered 1, 3, 7, and 10 of the county of Coffee	45	114
The votes of districts numbered 1, 4, 7, 13, and 15 in the county of Marshall	9	509
	59	1,227
Which being deducted from the vote as returned by the election officers or those acting as such	3,855	4,591
	59	1,227
	3,796	3,364
	3,364	
Gives a majority to contestee of	432	

And upon this revision of the governor the certificate of election was awarded to contestee.

There is no law of the State of Tennessee that gives authority to the governor to reject the vote of any county or part of a county; his duty is only to compare the returns received by him with those returned to the office of the secretary of state, and upon such comparison being

made to "deliver to the candidate receiving the highest number of votes in his district the certificate of his election as Representative to Congress." (Code of Tennessee, sec. 935, page 239.) If illegal votes have been cast, if irregularities have existed in the elections in any of the counties or precincts, if intimidation or violence has been used to deter legal or peaceable citizens from exercising their rights as voters, to this House must the party deeming himself aggrieved look for redress. This great power of determining the question of the right of a person to a seat in Congress is not vested in the executive of any State, but belongs solely to the House of Representatives. (Constitution United States, art. 1, sec. 5.)

The action of the governor, so far as he has thrown out the votes of counties or parts of counties, is to be disregarded, and the matters in dispute are to be settled upon the actual returns and the evidence introduced, independent of the doings of the executive. We will therefore proceed to an examination of the returns, and the evidence relating to the counties and parts of counties in controversy, and to the points in dispute in this case.

LINCOLN COUNTY.

The election laws of Tennessee require—

"That the governor of the State shall appoint a commissioner of registration for each and every county in the State," (act February 25, 1867, chap. 26, sec. 2,) by whom "the judges and clerks of all elections shall be selected and appointed in each county," (*ib.*, sec. 10,) and whose duty it is "to hold all elections." (Act February 26, 1868, chap. 51, sec. 1.)

The statute of the State of Tennessee passed February 26, 1868, sections 1 and 2, provides as follows:

SECTION 1. *Be it enacted by the general assembly of the State of Tennessee*, That the governor of the State be authorized, and he is hereby fully empowered, to set aside the registration of any county in this State, or any part thereof of said registration, when it shall be made to appear to the satisfaction of the governor that frauds and irregularities have intervened in the registration of voters in such county. The governor shall make known such fact, and set aside said part or whole of said registration, when frauds are shown to have been committed, by proclamation.

SEC. 2. *Be it further enacted*, That all acts of the governor declaring registrations in the different counties of this State by proclamation null and void, and removing the registers of said counties and appointing others, are hereby legalized, and full power given the governor to remove county commissioners of registration for dereliction of duty, frauds or irregularities; and the appointment of other commissioners of registration is hereby confirmed, together with all other acts done by him under the registration law, passed March 8, 1867, whether said act, known as "An act to amend section 2114, article 2, chapter 4, of the Code of Tennessee, and for other purposes," justified the governor in his action or not.

Some time prior to the November election, 1868, the following proclamation was published in the papers circulating in the county of Lincoln:

PROCLAMATION.

EXECUTIVE OFFICE,
Nashville, Tennessee, October 19, 1868.

Whereas by an act of the general assembly of the State of Tennessee, entitled "An act to legalize the acts of the governor," passed February 26, 1868, it is made the duty of the governor, when frauds and irregularities have intervened to the registration of any county, to set aside part or whole of said registration by proclamation; and whereas it has been made known to me that frauds and irregularities have occurred in the registration of the county of Lincoln: Now, therefore, I, William G. Brownlow, governor of the State of Tennessee, by virtue of the authority in me vested, and in the discharge of the duty imposed upon me by the first section of the aforesaid act of the general assembly, do hereby set aside and declare null and void all that part of the registration of our county of Lincoln made by A. H. Russell, late registration commissioner.

In testimony whereof I, William G. Brownlow, governor as aforesaid, have here-

unto set my hand and caused the great seal of the State to be affixed, at the department in Nashville, on this 19th day of October, 1868.

[SEAL.] W. G. BROWNLOW.

By the governor:

A. J. FLETCHER, *Secretary of State.*

Upon the promulgation of the above, the evidence discloses that there was a general belief in the county that the governor, by this proclamation, removed the commissioner of registration for Lincoln County from his office, and no appointment of any commissioner having been made up to the time of the election, many voters did not attend the polls, not considering that any legal election could be held until such appointment had been made.

On the second day of November, 1868, the day preceding the presidential election, the county court for the county of Lincoln appointed one "C. S. Wilson to open and hold the election in Lincoln County, for President of the United States and member of Congress, as the sheriff, F. W. Keith, refused, in open court, to hold said election for want of time." Said Wilson, acting under this appointment, selected deputies, judges, and clerks in seven of the twenty-five districts in this county, and in those districts only were elections held, and the returns were made by said Wilson, and signed by him as coroner, by which it appears that Tillman received 5, and Sheafe 554 votes. Contestant claims that the act of the governor in setting aside the registration of Lincoln County was unconstitutional and void, and that by virtue of the provisions of the Code of Tennessee, section 839, page 226, which is as follows:

> The sheriff, or, if he is a candidate, the coroner, or, if there be no coroner, some person appointed by the county court, shall hold all popular elections; and said officer or person shall appoint a sufficient number of deputies to hold said elections.

There being a vacancy in the office of commissioner of registration, the appointment of Wilson to open and hold the election was legal and binding.

It is not necessary to discuss the question of the constitutional powers of the governor to set aside a registration, for if this act of his was unconstitutional, and he had no power to set aside a registration and remove a commissioner, then there was no vacancy ;the commissioner had not been deprived of his office, and he was the only person by law authorized to hold the election. But if this act of the governor did have the effect of removing the commissioner, the county court had no right under the statute to appoint an election officer; the act of February 26, 1867, ch. 26, sec. 2, above referred to, vested the appointing power of these officers wholly in the executive, and repealed all laws in conflict therewith. Wilson, therefore, held his office under no color of legal authority; was not even an officer *de facto*, but was a mere usurper, and all acts done by him as such officer were illegal and void; and when it appears that Wilson was appointed by the court only the day prior to the election, so that it would have been impossible that due notice of his appointment or of the election could have been given; that elections were held in only seven of the twenty-five districts of the county; that it was generally understood that there was no officer legally appointed to hold the elections, and that voters did not attend the polls on that account; and when it is further found that there existed in the county organizations of men, mounted, armed and disguised, and known by the name of the Ku-Klux Klan, banded together for political purposes, who, by their threats and violence, intimidated and deterred voters from attending the polls, there could not have been, and was not such a full

and free expression of the will of the voters as is deemed necessary to constitute a fair election. The committee, therefore, is of the opinion that this election had no semblance of legality, and that the entire vote of Lincoln County should be rejected.

MARSHALL COUNTY.

The commissioner of registration of this county in his return states, that in the districts numbered 1, 4, 7, 13, and 15, which gave Tillman 9 and Sheafe 559 votes, "no oath accompanied the poll-box, but all certified to be held according to law." And the evidence introduced does not disclose that the oath required by statute was taken and subscribed in the above districts in conformity to law.

The committee adheres to the principle enunciated in the contested election case of Barnes *vs.* Adams, second session of this Congress, viz, that it is not essential to the validity of an election that the officers should be sworn, or should in all things be held to the strict requirements of the law, so far as their qualifications for the office which they hold are concerned. If it appears that there was no fraud in the election, that it had been fairly conducted, and that there was an opportunity for a full expression of the will of the voters at the ballot-box, the mere fact of the omission of an officer to take the oath prescribed by law will not vitiate an election. But if, on the other hand, the election was not fairly conducted, if there was fraud in the ballot, if it should appear that there was an organized attempt of a class of persons in the county to prevent citizens of one particular political belief from depositing their votes freely and peaceably, if intimidation was used to control the voters, and by these means there was not a full, fair, and free expression of the will of the voters at the ballot-box, then, in such voting precincts where the requirements of law were not complied with, the vote should be rejected.

In the county of Marshall the evidence declares the existence of the Ku-klux Klan in the community. A colored man testified that for about two months prior to the election disguised men were often at his house in the night; that his house was fired into, and once he was struck by a ball; that he went into another district and voted the republican ticket; that after the election his house was surrounded, and while attempting to escape he was fired at; was told by these men that he was thus treated because he voted against them. Others testified to the existence of this band of disguised men in the county; that the organization was of a political character, and that its effect was to intimidate and deter the republican voters from the polls. From the evidence introduced the committee is of the opinion that the state of affairs existing in this county precluded a free expression of public sentiment at the polls, and rejects the vote of the above districts.

COFFEE COUNTY.

In the districts numbered 3 and 7, of this county, which gave Tillman 24 and Sheafe 87 votes, the requirements of the law in subscribing the oath by the election officers were not complied with.

The evidence shows that great fear and dread of the Ku-Klux prevailed among the republicans in this county; that through fear many republicans did not vote; that white and black republicans were whipped. One colored man stated that about one month after the election he was tied over a log and struck on the skin two hundred lashes, and was so

whipped for voting the radical ticket. Another colored man testified that the night before the election his house was visited by the Ku-Klux, his windows smashed and his floor torn up, and that he voted for Sheafe through fear; others testified that the effect of the existence and lawless acts of this disguised band of men in the county was to keep republicans from attending the elections and to cause some of them to vote the democratic ticket; the requirements of the law not being strictly complied with in the above districts, and this taken in connection with the intimidation and lawless violence that pervaded the county some time before and after the election, should exclude the vote of the 3d and 7th districts of Coffee County.

FRANKLIN COUNTY.

In making his return the commissioner of registration for this county did not include the votes of districts numbered 1, 4, 10, 12, and 15, which gave for Tillman 43 and for Sheafe 463 votes, on the ground "that the votes were illegal, inasmuch as neither judges and clerks were sworn according to law, and many voted without certificates." In the first district, in which Tillman received 3 and Sheafe 293 votes, the poll-book was among the papers in evidence; no oath accompanied the same, and no statement or certificate appeared that any of the officers were sworn; testimony was introduced showing that all the officers were sworn except the one who held the election. It also appeared in evidence that some persons voted without proper certificates, and that the frauds perpetrated at the election were so flagrant that the crowd about the ballot-box regarded it as a huge joke and seemed to enjoy it as such. It also appeared that the Ku-Klux visited this district at times during the spring and summer of 1868, in various numbers, at one time from ten to fifteen, at another time from thirty to forty, and the night before the election they were present in Winchester to about the number of thirty-five; that some colored persons, through their dread of the Ku-Klux, slept in barns and out-houses away from their homes for some days before and immediately after the November election, 1868; that at first the presence of the Ku-Klux seemed only to affect the negro, but by and before the said November election, the public mind of both white and colored became more excited; that the result of their visit the night before the election was to intimidate the republicans, and that on this account voters did not come to the polls. For the above reasons the committee reject the vote of this district. In the remaining districts of this county not allowed by the commissioner, no satisfactory evidence has been introduced to justify his action in rejecting the vote.

IMPORTED VOTES.

The contestant alleges that "many persons not residents of the county where they were permitted to vote, voted at said election for contestee. The evidence upon this point relates to the 7th or Rock Creek district of Franklin County. Witnesses for contestant (most of them were not residents of the district but present there at the election) testify that a large number of negroes were present at the polls of this district; that they were not known to the witnesses, many of whom were old residents of the county, and well knew the inhabitants; that several of the negroes said they did not live in the county; that certificates of registration were handed to them with the Grant and Tillman tickets folded in them, and that from forty to sixty of these votes were polled illegally.

The commissioner of registration and one of the judges of election were witnesses for the contestee, and from their testimony it appeared that there were some forty negroes who lived in Franklin County at work on a railroad in another county, who came to this district, it being the nearest place for them to vote in Franklin County; that some of contestant's friends were at the polls and challenged such voters as they deemed had no right to vote, and that some ten to fifteen colored votes were thrown out, and that no illegal votes were polled. It was also in testimony that some fifty raiders were present at the polls with guns and with pistols drawn, and by reason of the intimidation created by the presence and actions of these men some thirty of the negroes were debarred from voting. The whole testimony is conflicting and unsatisfactory. It may have been that some persons voted for the contestee who were not qualified, and that some of the friends of contestee were, by intimidation at the polls, prevented from voting, but as neither the returns show, nor does it appear in evidence, how many votes were given for each of the two candidates, (it only appearing that the whole vote was eighty-one,) the committee do not feel justified in disturbing the vote of this district.

REFUSAL OF COMMISSIONER TO ISSUE CERTIFICATES.

Contestant, in his 5th and 6th specifications, claims that the commissioners "refused certificates to those entitled to them who differed from them politically, and gave certificates to those not entitled who were their political friends," and that "the commissioner signed blank certificates to other parties, who filled them with names and delivered them to parties not entitled to them." The evidence of the unlawful issuance of certificates is mostly confined to those issued and used at the election in the 7th district of Franklin County, and the determination of the committee upon the vote of that district as above will preclude the necessity of any further allusion to the evidence upon this point.

The testimony introduced tending to show that the commissioner unlawfully withheld certificates from those entitled to them is not made out to the satisfaction of the committee.

The committee have passed upon all the specifications of the contestant and counter allegations of the contestee that they deem material to the determination of this contest, and make the following

SUMMARY:

			Tillman.	Sheafe.
Total vote as returned by the commissioners of registration, by the coroner of Lincoln County, and the vote of the districts in Franklin County returned by the commissioners as illegal			3,898	5,054
From which deduct the vote of Lincoln County	5	534		
The vote of districts Nos. 1, 4, 7, 13, and 15 of Marshall County	9	539		
The vote of districts Nos. 3 and 7 of Coffee County	24	87		
The vote of district No. 1 of Franklin County	3	293		
	—	—	41	1,493
Leaves vote as follows			3,857	3,561
Deduct Sheafe's vote from Tillman's			3,561	
Gives Tillman a majority of			296	

The committee therefore submit the following resolutions, and recommend their passage:

Resolved, That C. A. Sheafe was not duly elected, and is not entitled

to a seat in this House as a Representative in the forty-first Congress from the fourth congressional district of the State of Tennessee.

Resolved, That Lewis Tillman was duly elected as Representative in the forty-first Congress from the fourth congressional district of the State of Tennessee, and is entitled to retain his seat as such.

Resolved, That C. A. Sheafe having contested the seat of the Hon. Lewis Tillman as a Representative in this House from the fourth congressional district of the State of Tennessee, in good faith and with probable cause, there shall be paid to him out of the contingent fund of the House of Representatives the sum of ——— dollars, in full for his expenses in such contest.

A.

TENNESSEE CONGRESSMEN.

Proclamation by the governor—Votes thrown out and radicals elected.

Whereas an election was held on the 3d of November for eight members of Congress for the eight congressional districts in the State of Tennessee; and also for one for the State at large; and whereas R. R. Butler, Horace Maynard, William B. Stokes, William F. Prosser, Samuel M. Arnell, and Isaac R. Hawkins were respectively elected from the first, second, third, fifth, sixth, and seventh districts, as members of the forty-first Congress, by a majority ranging at from two to ten thousand, as also was John B. Rogers for the State at large; and whereas there exists no controversy in regard to the election of these gentlemen, I have this day caused certificates of election to be made out, in due form, for each of the gentlemen aboved named; and whereas in the fourth and eighth districts contests exist between rival candidates:

Now, therefore, I, William G. Brownlow, governor of Tennessee, do submit the following statements, and the conclusions at which I have arrived, after considering all the facts in the case:

From the returns in the office of the secretary of state, it seems that, in the fourth district, Sheafe received 666 votes more than Tillman. But, correcting the returns by the law governing in such cases, by throwing out the vote of Lincoln County, as the election was held by order of the county court, and the returns were made by the coroner—the law requiring elections to be held and returns made by the commissioner of registration; and by throwing out the vote in the civil districts of the counties of Coffee and Marshall, in which it appears that the judges of election had not taken the necessary oath, the vote for that district would stand as follows: For Sheafe, 3,363, and for Tillman, 3,795; leaving Tillman's majority 432. I therefore award the certificate to Lewis Tillman.

The returns from the eighth district show that John W. Leftwich received 6,532 votes, W. J. Smith 5,543 votes, and David A. Nunn 4,026 votes, giving Leftwich 989 majority over Smith.

I utterly repudiate the vote of Tipton County, as an exhibition of the most stupendous fraud perpetrated in the State during the late election. I also cast out the vote of Fayette County, as held in open violation of the franchise law. Besides these, a suplemental return by the commissioner of registration for Shelby County gives, for that county alone, an addition of about 700 votes in favor of W. J. Smith over Leftwich, all of which gives Smith a clear majority of over a thousand above Leftwich. I therefore award the certificate of election to W. J. Smith.

If there had been no other law to be regarded in the issuance of commissions or certificates to the members of Congress but the Code, (sec. 935,) my duty would have been quite plain. But the "act to limit the elective franchise" has been since passed. It proposes a great change—I may say revolution—in our elective system. It announces that a large portion of our people have made war upon the Government, and are unsafe depositaries of the elective franchise. It provides, moreover, for a registration of voters, and declares that no one is a legal voter unless he shall have a certificate of registration, and that certificate must be obtained in a legal way. A valid registration becomes indispensable to a valid election. With official information before me that the votes cast for a candidate are illegal, and his election void, and that the Ku-Klux Klans have used violence and other means of intimidation to deter legal voters from exercising the franchise, I cannot, and will not, certify that he is "regularly elected according to the laws of the State." Whatever others may think of my duty, I will not declare, in a certificate or otherwise, that the election was regular in counties or districts, when I officially know that it was not regular.

In these conclusions I am happily relieved of much responsibility by the fact that my decision is not conclusive. The question is still open for the decision of Congress.

In testimony whereof I have signed the foregoing in the executive department, and affix the great seal of the State, this 11th day of February, A. D. 1869.

W. G. BROWNLOW.

VIEWS OF THE MINORITY.

Mr. Dox, from the Committee of Elections, submitted the following as the views of the minority:

Resolved, That C. A. Sheafe was duly elected, and is entitled to his seat in the forty-first Congress, as the Representative of the fourth congressional district of the State of Tennessee.

Resolved, That Lewis Tillman was not elected, and is not entitled to a seat in the forty-first Congress, as the Representative of the fourth congressional district of the State of Tennessee.

○

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 3, Part 2.

SHEAFE vs. TILLMAN.

JANUARY 30, 1871.—Laid on the table and ordered to be printed.

Mr. DOX, of the Sub-committee of Elections, made the following

MINORITY REPORT.

The Sub-committee of Elections, to whom this case was referred, by permission of the House, respectfully submits the following report, which expresses the reasons for his dissent from the conclusions of the majority.

Although dissenting from the majority of the committee in the conclusion which they have reached in this case, the undersigned is gratified in finding so much in the report of the majority to which he can give his assent.

He concurs with the majority of the committee in the opinion that the notice given by the contestant (Sheafe) was sufficient.

He concurs with the majority of the committee that contestant received 1,156 more votes than the contestee, Mr. Tillman, for Representative in Congress at said election.

He also concurs with the majority of the committee in regarding the action of the then governor of Tennessee, (W. G. Brownlow,) in throwing out the entire vote of Lincoln County; the votes of districts numbered 1, 3, 7, and 10 of Coffee County; the votes of districts numbered 1, 4, 7, 13, and 15 in the county of Marshall, and certain districts in the county of Franklin, whereby contestant loses 1,690 votes, and contestee 102 votes, as an unlawful and arbitrary exercise of executive power, and to be disregarded by the committee. In the language of the report of the majority of the committee—

> There is no law of the State of Tennessee that gives authority to the governor to reject the vote of any county or part of a county; his duty is only to compare the returns received by him with those returned to the office of the secretary of state, and upon such comparison being made, to "deliver to the candidate receiving the highest number of votes in his district the certificate of his election as Representative to Congress." (Code of Tennessee, sec. 935, page 239.) If illegal votes have been cast, if irregularities have existed in the elections in any of the counties or precincts, if intimidation or violence has been used to deter legal or peaceable citizens from exercising their rights as voters, to this House must the party deeming himself aggrieved look for redress. This great power of determining the question of the right of a person to a seat in Congress is not vested in the executive of any State, but belongs solely to the House of Representatives. (Constitution United States, art 1, sec. 5.)
>
> The action of the governor, so far as he has thrown out the votes of counties or parts of counties, is to be disregarded, and the matters in dispute are to be settled upon the actual returns and the evidence introduced, independent of the doings of the executive.

The denial of the certificate of election to Mr. Sheafe, the contestant in this case, by the governor of Tennessee, was an act of usurpation committed, and a wrong done to the prejudice of that gentleman, without a shadow of authority by the laws of either the State of Tennessee or of the United States.

Had the law been respected by the governor, Mr. Sheafe, who was elected by the people, and whose *prima facie* right to the certificate cannot be questioned, would have been returned to this House, (which alone has the right and power to determine the questions involved in this case,) and not Mr. Tillman, who comes here elected and accredited alone by the governor of Tennessee, after being defeated by a large majority at the polls.

But while all of the members of the committee agree in the sufficiency of the notice of contest given by the contestant, and that contestant had a majority of the votes polled, and also in the unauthorized action of the governor in "setting aside" the vote of the county and parts of other counties at his pleasure, yet a majority of the committee have found reasons which escaped even the vigilance and scrutiny of the then governor of Tennessee for denying to Mr. Sheafe the seat in this House, to which he was, in the opinion of the undersigned, most clearly and lawfully elected.

It was certainly not through inadvertence that Governor Brownlow, in determining who was elected to represent the fourth congressional district of Tennessee in the Forty-first Congress, in his proclamation omitted to notice the causes, to wit, intimidation of voters by Ku-Klux and other lawless bodies, which the majority of the committee have regarded as sufficiently established by the testimony taken in the case to warrant them in taking from the contestant 1,493 votes, and enough to elect his competitor (from whom but 41 votes are taken) by a majority of 296 votes.

An examination of Governor Brownlow's proclamation, dated the 11th day of February, 1869, more than three months after the election, will show that as ardent a republican as Governor Brownlow, who certainly cannot be charged with any lack of zeal in the service of his party, had not then learned that the intimidation of voters was sufficient to justify him in electing Tillman, who had been defeated by 1,156 majority of the popular vote in favor of Mr. Sheafe.

In order to effect that object he was compelled to resort to a revision of the returns made by his own appointees, (not one of whom has anything to say about intimidation in his return,) and to a general expurgation of the votes, rejecting the vote of one entire county (Lincoln) and of parts of divers other counties throughout the district.

That it was not through inadvertence that intimidation was not assigned by the governor as a cause for defeating the choice of the people in the election of their Representative in Congress, is evident from the fact that in the same proclamation intimidation is charged to have prevailed in another district, (the 8th,) yet it is not mentioned as a cause for disregarding the will of the people, as expressed through the ballot box in this, the 4th district.

(See proclamation of Governor Brownlow, Exhibit A, at the conclusion of majority report.)

The undersigned therefore concludes that the charge of intimidation of voters, and of Ku-Klux outrages, affecting the election in this case, was not thought of by the governor of Tennessee, nor by Mr. Tillman, the contestee, as sufficiently sustained to warrant its use for the purposes of this contest until many months after the election in November, 1868.

The undersigned would respectfully call the attention of the House to the following propositions, which will not be controverted, and which make it impossible for him to assent to the conclusions reached by a majority of the committee in this cause:

1. No person could vote at the election in question unless authorized

to do so by an officer called a commissioner of registration, who could only be appointed by the governor, W. G. Brownlow.

2. All of the officers, judges, and clerks (except in the county of Lincoln) who held this election, were either appointed by the same governor or by his said appointees, the said commissioners of registration.

3. The governor claimed and exercised the power of setting aside and annulling the registration of voters made by his own appointees as aforesaid, at his mere option and pleasure.

4. In no case did a commissioner of registration (all of whom were republicans and appointed as aforesaid by the governor) assign as a reason for the rejection of the vote of certain civil districts which gave contestant large majorities, that force or intimidation had been used to obtain said majorities.

5. The whole congressional district was occupied by Federal troops, at the request and subject to the direction and control of the said governor.

6. In Marshall County, where the majority of the committee reject five hundred and fifty-nine votes given for contestant to nine votes given to the contestee, Captain E. L. Huntington, commanding the post, with his company stationed at the county seat, (Lewisburg,) certifies as follows:

LEWISBURG, MARSHALL COUNTY, TENNESSEE,
November 21, 1868.

To all whom it may concern:

Company A of the Twenty-ninth United States Infantry came to Lewisburg on or about the 6th day of October, 1868, and remained until to-day. We were in Lewisburg on the 3d day of November, and witnessed the election for President and member of Congress from this the fourth district of Tennessee. The election was very quiet; every one voted his sentiments, without disturbance or threats, both white and colored; and no one in the county, so far as we are advised and believe, voted except those who had certificates to vote under the franchise law of Tennessee. The citizens of the county are quiet and law-abiding, and treated my command with kindness and due respect.

E. L. HUNTINGTON,
Captain Twenty-ninth Infantry, Commanding Post and Company.

(See evidence, page 70.)

In the opinion of the undersigned, Captain Huntington is sustained by the weight of testimony in the cause.

7. That in Coffee County, where the majority take 87 votes from contestant to 24 from contestee, it does not appear from the testimony that there had ever been a Ku-Klux, or that a single outrage had ever been committed, or that there had ever been the least intimidation of any voter in either of the two civil districts rejected, but the proof is directly to the reverse. (See depositions of P. C. Cunningham, page 5; W. P. Ford, pages 5, 6, and 7; H. S. Emerson, pages 9 and 10; and D. E. Mead, pages 13 and 14, evidence.)

8. That at Winchester, in Franklin County, where the majority of the committee reject 293 votes given for contestant to 3 votes given for contestee, for the alleged reason that "some persons voted without proper certificates, and that the frauds perpetrated at the election were so flagrant that the crowd about the ballot-box regarded it as a huge joke, and seemed to enjoy it as such," when contestee's own witness, who was one of the judges of the election and an officer in the Federal Army during the rebellion, in his deposition, denies each and every one of the above reasons for rejecting said vote as given by the majority;

(see the deposition of N. W. Wilcox, page 156 of the evidence; and he is sustained by Albert Ringle, page 77, and Nathan Frizzell, pages 82, 83, and 84;) while the majority is not sustained by any witness in the cause, and can only be based upon the testimony of one witness, who had but little opportunity of knowing the facts, as he himself swore. (See deposition of J. G. McCutcheon, pages 141, 142, and 143, evidence.)

THE ELECTION IN LINCOLN COUNTY.

But it is claimed that in Lincoln County the election was held by the coroner, and that it could have been lawfully held only by a commissioner of registration. Upon this point the majority of the committee report as follows:

It is not necessary to discuss the question of the constitutional powers of the governor to set aside a registration, for if this act of his was unconstitutional, and he had no power to set aside a registration and remove a commissioner, then there was no vacancy; the commissioner had not been deprived of his office, and he was the only person by law authorized to hold the election. But if this act of the governor did have the effect of removing the commissioner, the county court had no right under the statute to appoint an election officer; the act of February 26, 1867, (ch. 26, sec. 2,) above referred to, vested the appointing power of these officers wholly in the executive, and repealed all laws in conflict therewith. Wilson, therefore, held his office under no color of legal authority; was not even an officer *de facto*, but was a mere usurper, and all acts done by him as such officer were illegal and void.

But the commissioner of registration for that county was removed by the governor, W. G. Brownlow, who neglected and refused to appoint a successor for that office, the governor alone having the power to make such removal and appointment, as has been more than once decided by the supreme court of Tennessee, the judges composing the bench having been appointed by the same governor. The power of the governor to annul a registration is another question, and will be hereafter considered.

Under the laws of Tennessee, as they stood at the time of the election in question, could the people of Lincoln County be deprived of all opportunity to vote for a representative in Congress, in the way above indicated?

It was provided by the code of Tennessee, page 226, section 839—

The sheriff, or, if he is a candidate, the coroner, or, if there be no coroner, some person appointed by the county court, shall hold all popular elections; and said officer or person thall appoint a sufficient number of deputies to hold said elections.

This section of the code was modified by an act of the general assembly passed February 26, 1868, page 67, acts of 1867–'68, without, however, any reference to the code in said act, and the same provision is contained in the last franchise act, which is as follows:

That it shall be the duty of the commissioner of registration of voters to hold all elections, now required by law to be held by sheriffs, and that, for that purpose, he shall have all of the powers and rights that sheriffs now possess, and be subject to like responsibilities and liabilities, and have fifty dollars per annum for his compensation, as is now allowed by law to sheriffs for similar services; all to be paid out of the county treasury.

Section 841 of the same code provides that—

The county court, at the session next preceding the day of election, shall appoint three inspectors or judges for each voting place, to superintend the election.

SEC. 842. If the county court fail to make the appointment, or any person appointed refuse to serve, the sheriff, with the advice of three justices, or, if none be present, three respectable freeholders, shall, before the beginning of the election, appoint said inspectors or judges.

SEC. 843. If the sheriff or other officer whose duty it is to attend at a particular place of voting under the foregoing provisions fail to attend, any justice of the peace present, or, if no justice of the peace be present, any three freeholders may perform the duties prescribed by the preceding sections, or, in case of necessity, may act as officers or inspectors.

It will be observed that neither the act of February 26, 1868, nor the franchise act repeals said section 839, or any other of the above sections of the code of Tennessee. Those acts simply provide that it shall be the duty of the commissioner of registration to hold the elections, have the powers and rights, be subject to the same responsibilities and liabilities, and receive the same compensation as sheriffs in discharging that duty. But if the sheriff was a candidate, or there was no sheriff, or if he refused to hold the election, then the coroner was the proper officer to hold it; and, as the commissioner of registration was, by the terms of the acts above referred to, simply substituted to the place, powers, and duties which had formerly devolved upon sheriffs, it follows that, as the office of commissioner of registration was vacant, that the coroner was the proper officer to hold said election, and that the same was properly held by him.

KU-KLUX.

But it is claimed that there were in some of the counties of this district organized bands of men, who sometimes made their appearance in disguise, calling themselves Ku-Klux, and that the effect of this organization, and of certain outrages perpetrated by them, was to deter many of the legally qualified voters from voting, and to cause others to vote contrary to their inclinations; and this alone is assigned by the majority of the committee as a reason for rejecting the vote of certain civil districts of the counties of Marshall and Coffee.

It is submitted that, upon the evidence in this case, it is a matter of doubt which party was most benefited or injured by the operations of these men; but, yielding the benefit of this doubt to the majority, how many votes is it claimed were thus intimidated? What proof is there in the record that, if there had been none of this intimidation, the majority of 1,156 for contestant could have been overcome?

Again, it does not appear from the proof that these disguised men ever attempted to influence any voter to vote for contestant and against contestee, except in one solitary instance, and that instance ought not to be an exception, because it is more than doubtful that any good was intended to contestant by the parties perpetrating this outrage, and it is certain that if it was thus intended it had a contrary effect.

But the proof does show very conclusively that contestant was an officer in the Federal Army during more than three years of the rebellion, while contestee was in neither army, and that contestant, both before and after the election, both publicly and privately, denounced and condemned this organization. This being so, why should they desire his election? And it is admitted by contestee that there was no intimidation in the election of his successor; and yet it will appear, from the abstract of the secretary of state of Tennessee of that election, which I have appended to this report, marked "Exhibit A," that Bright, the democratic candidate, received 11,827 votes, while Mr. Mullins, the republican candidate, received but 1,843 votes. It is true that many of the citizens of Tennessee have been enfranchised since the election in controversy, but all can vote now who could vote then, and yet Mullins's vote in 1870 is 2,055 less than the vote for Mr. Tillman in 1868.

"SETTING ASIDE" THE REGISTRATION.

Furthermore, the proof shows that in one county alone (Lincoln) there were between 1,500 and 2,000 voters excluded from the polls by the action of the governor in "setting aside" the registration of voters

by proclamation; and that many more were prevented from voting in two other counties, (Franklin and Coffee,) by the same cause. It is admitted by the contestee in his answer, that these voters thus excluded from the polls, if they had been allowed to vote, would have voted for contestant. *Was the governor authorized thus to "set aside" the registrations and exclude these voters from the polls?* The supreme court of Tennessee—each of the three judges who composed the bench having been appointed to his high office by Governor Brownlow—each in a separate opinion, and all concurring, decided in the case of the *State of Tennessee* vs. *William Staten*,(6th Caldwell's Reports, page 234,) that—

The statute which empowers the governor in his discretion practically and effectually to abrogate the right to vote of any and every qualified citizen of the State, and at any time, and for all time, and in any and all elections, is repugnant to that portion of the constitution which is expressly ordained to secure to the people the right to elect the officers of their government.

The statute which practically and effectually empowers the governor to determine who of the qualified citizens shall vote and who shall not vote, and who shall elect and who shall not elect the officers of the government, himself included, is repugnant to that portion of the organic frame of the government which was ordained to establish and maintain a republican form of government.

The statute which empowers the governor practically and effectually to divest out of any and every qualified voter his right to vote, not only once, but from time to time and without end, is repugnant to those provisions of the organic law which are ordained to invest the courts with judicial power, and to exclude the executive head of the government from the exercise of such power.

For these reasons the court is constrained to hold that the statute which confers on the governor the power to set aside and annul the registration of a county, in whole or in part, is unconstitutional and void.

In this determination are included the act of March 8, 1867, chapter 36, sections 4 and 5, and that part of the act of February 26, 1868, chapter 52, so far as it authorizes the governor to set aside registration, and undertakes to confirm his acts of this kind done before the passage of the act; and to punish persons who vote or who attempt to vote "by virtue of certificates issued from a registration declared null and void" by the governor.

Again: the contestee admits (see his "Reply to Contestant's Argument," page 9) that if the supreme court decided that the governor had no power to "set aside" these registrations, that "not only the contestee in this case *is not entitled to a seat*, but perhaps only a few of the sitting members from Tennessee of the present or any preceding Congress since the rebellion are or were entitled to seats."

That the court so decided does not admit of debate. Now, which does the majority of the committee propose to overrule, the unanimous opinion of the supreme court of the State, thus solemnly pronounced by a bench thus appointed, or the equally deliberate and solemn conviction and admission of the sitting member? Indeed, to sustain the resolutions recommended by the majority is to ignore both the court and the contestee.

From the report of the majority of the committee in thus overruling the decision of the supreme court of Tennessee, and the confession of judgment thereupon by contestee, the undersigned, for the reasons hereinbefore given, makes his appeal to the Representatives of the nation, and submits for their determination the following resolutions:

Resolved, That C. A. Sheafe was duly elected, and is entitled to his seat in the Forty-first Congress as the Representative of the fourth congressional district of the State of Tennessee.

Resolved, That Lewis Tillman was not elected, and is not entitled to a seat in the Forty-first Congress as the Representative of the fourth congressional district of the State of Tennessee.

P. M. DOX.

EXHIBIT A.

SECRETARY OF STATE'S OFFICE,
Nashville, Tennessee, January 12, 1871.

Official vote for member of Congress from the fourth congressional district of Tennessee:

Counties.	John M. Bright.	Jas. Mullins.
Rutherford	2,099	610
Cannon	833	83
Coffee	693	35
Franklin	1,392	27
Lincoln	2,364	48
Bedford	1,449	634
Marshall	1,208	163
Giles	1,789	243
Total	11,827	1,843
	1,843	
Bright's majority	9,984	

STATE OF TENNESSEE:

I, Thomas H. Butler, secretary of state of said State, hereby certify that the foregoing is a true statement of the election for member of Congress in the fourth congressional district of said State, at an election held on the 8th day of November, 1870, as the same appears of record in my office.

In testimony whereof I hereunto set my official signature, and, by order of his excellency the governor, affix the great seal of the State of Tennessee, at the executive department in Nashville, on this 12th day of January, 1871.

[GREAT SEAL OF TENNESSEE.]

T. H. BUTLER,
Secretary of State.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 4.

RESERVATION AT POINT SAN JOSÉ, SAN FRANCISCO.

[To accompany bill H. R. No. 2688.]

JANUARY 10, 1871.—Ordered to be printed and recommitted to the Committee on Military Affairs.

Mr. ASPER, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, to whom was referred the memorial of Rudolph Steinbach, Theodore LeRoy, Emil Grisar, and George and Mary Ann Eggleton, praying to have lands and improvements taken for public use by military authority restored to them severally, or that they be allowed compensation therefor, having fully considered the same, beg leave to report:

That in 1865 General McDowell, then in command of the Department of California, with headquarters at San Francisco, took military possession of the whole of Black Point, or Point San José, being an elevated point of land extending into the bay of San Francisco, under authority of what was believed to have been a reservation made by the President of the United States, Mr. Fillmore, in 1850 and 1851, but which was first known of by the citizens in San Francisco on the 31st of October, 1864. The portion claimed as reserved was within a radius of 800 yards from the extreme northern point of the promontory of San José.

Valuable improvements existed upon this tract of land. The city water-works, the Pioneer woolen mills, a large smelting works, and Stevens' meat-packing works were all on this reservation; but the proprietors of the establishments were at no time disturbed in the enjoyment and occupancy of their property after the orders of General McDowell were made public.

By an act passed at the last session of Congress, being public act 128, (acts and resolutions of the 2d session of the 41st Congress, pp. 147 and 148,) all this alleged reservation, except that portion described as follows, viz:

> Commencing at a point in the mean low-water shore line of the bay, or entrance to the bay, of San Francisco, east of the promontory of Point San José, where the same is intersected by the westerly line of Van Ness avenue; running thence southerly along the said westerly line of Van Ness avenue to its intersection with the northern line of Bay street; thence westerly along the north side of Bay street to its intersection with the eastern line of Laguna street; thence northerly along the said eastern line of Laguna street to the westerly shore; thence in a northeasterly, easterly, southeasterly, and southerly direction, following the said shore line, and including the entire water front between Laguna street and Van Ness avenue, to the point or place of beginning—

was relinquished to the city of San Francisco, which covered all the title, claim, or interest of the United States therein. This relieved the city water-works, the aforesaid industrial establishments, and a number of private parties from the effects of the orders of General McDowell. The portion still retained covers an area of about fifty-five acres, and comprises all the northernmost portion of the point or promontory.

Previous to the appropriation of this promontory by the United States, through her military officers, the memorialists and others, among them Mrs. Jessie Benton Frémont, had made valuable improvements thereon, having erected dwelling-houses, stables, barns, outbuildings, water-reservoirs, and laid out grounds, planted shrubbery and flowers, and made such other adornments as to make beautiful, tasteful, and elegant homes, all of which having been taken possession of under military orders and despoiled or put to use for officers' quarters and other purposes of the Government, they now demand the restoration of their property, or that reasonable compensation be made therefor.

Your committee have examined documents, papers, volumes of reports, and such data as were within their reach, and have no difficulty in coming at a conclusion upon the subject; and they have no doubt that if the memorialists have not a perfect legal title to the lands reserved or taken for public use, they at least have such strong and prevailing equitable title thereto as to entitle them to such relief as will make them good for the property taken; and that as against the memorialists the United States have no title whatever to the property claimed, except such as she derived by taking possession for public use, and by the act of Congress of July 1, 1870, above referred to, and the act of March 8, 1866, reference to which will herein be made.

The facts upon which the rights and equities of the memorialists rest and are derivable, are as follows:

Previous to the acquisition of the territory of California a pueblo or town had been laid out under authority from the Mexican government, where the city of San Francisco now is, and San Francisco succeeded to the rights, privileges, franchises, and immunities of the ancient pueblo. (See Hart *vs.* Burnett, 15 Cal., 616; and Payne *vs.* Treadwell, 16 Cal., 224.) Among the rights of such towns was the right to four square leagues of land. This right is thus described by the Supreme Court of the United States in the case of Townsend *vs.* Greeley, 5 Wallace, 336:

> By the laws of Mexico in force at the date of the acquisition of the country, (California,) pueblos or towns were entitled, for their benefit and the benefit of their inhabitants, to the use of lands constituting the site of such pueblos or towns, and of adjoining lands within certain prescribed limits. This right appears to have been common to the cities and towns of Spain from an early period in her history, and was recognized in the laws or ordinances for the settlement and government of her colonies on this continent. These laws and ordinances provided for the assignment to the pueblos or towns, when once established and officially recognized, for their use and the use of their inhabitants, of four square leagues of land.

The lands within the present limits of the reservation of the act of July 1, 1870, aforesaid, at Point San José, were a part of and within the four leagues belonging to the city of San Francisco, and were wholly unoccupied and unimproved up to the year 1852. By the new charter of the city of San Francisco of 1851 the limits of the city proper extended beyond the exterior lines of this reservation. In 1852 these lands were first settled upon by private citizens and were improved. The United States had no possession whatever of them, nor did she claim title or right thereto. The large reservation extending from Fort Point, and consisting of about 1,540 acres, was at that time fenced up by the Government, occupied, and guarded by sentinels, and was in plain sight of the tract known as Point San José, which was under daily observation of the officers and men on duty at the fort and the barracks of the presidio. The citizens who occupied Point San José and possessed the same had the only title then known—the possessory right given by the city. This right and the title of the city were secured to them by the city of San Francisco in 1855 by the passage of the ordinance entitled

"An ordinance for the settling and quieting of the land titles in the city of San Francisco," by which the city released and quit-claimed to the parties in actual possession all the lands within the city limits. On the 11th day of March, 1858, the legislature of the State passed a law to ratify and confirm this ordinance.

This was the title of the parties in possession when, in 1863, the Government took possession of the extreme point and erected thereon defensive works, and when, in June, 1865, the order of General McDowell was carried out, and the memorialists were forcibly ejected from their homes and possessions by the military.

The supreme court of California, in the case of Hart *vs.* Burnett, 15 Cal., 616, and in numerous other cases, had decided that this title, acquired through the pueblo franchise under the Mexican laws, confirmed by the city ordinance and act of 1858 aforesaid, was "*a perfect title;*" and in every instance sustained the right of the city to her lands, and all the rights acquired under the city by the inhabitants of San Francisco.

On the 31st day of October, 1864, *is the first time* the United States claimed title to this point or any portion of San José reservation, and until that day neither the law officers of the Government nor the military authorities had any knowledge of any claim of the United States to these lands. In 1863 the military authorities took possession of the extremity of the point, but no claim of right was made to it, it being taken under what was believed to be military necessity, in order to build a defensive work to prepare for the feared approach of the Alabama—the title was to be settled thereafter. This was more than ten years after its settlement under right derived from the city, and the order of General McDowell was executed more than twelve years after the occupancy and improvement of these lands by the memorialists, or those under whom they claim.

Under the act of Congress of March 3, 1851, a board of land commissioners was created to ascertain and settle private land claims in California. By the 14th section of this act Congress declared that the fact of the existence of any city, town, or village, on the 7th of July, 1846, being duly proved, should be *prima facie* evidence of a grant to such corporation. The city of San Francisco, on the 2d of July, 1852, presented her claim for the four square leagues to the said board, and asked its confirmation. The United States contested this claim, denying the title of the city, but did not make any claim of reserves, nor of any right to make reserves. The city made proof of the existence of the pueblo or town of San Francisco prior to July 7, 1846.

In 1854 the board of land commissioners confirmed the claim to a portion of the four square leagues, and rejected it for the balance. *The portion confirmed embraced the lands at Point San José.*

Both the United States and the city appealed from this decision to the United States district court; the United States because they denied the entire claim of the city, and the city because dissatisfied with the quantity confirmed. Subsequently the United States withdrew their appeal and consented that the city have leave to proceed upon the decree of the board rendered in its favor, *as under final decree.* The United States district court dismissed this appeal accordingly, and the court ordered that the suit proceed in behalf of the city of San Francisco. The city prosecuted her appeal to final decree, which was entered in that case on the 18th of May, 1865.

The withdrawal by the Government of the appeal from the decree of the board of United States land commissioners was necessarily regarded

as an admission and recognition on the part of the United States of the facts upon which the claim of the city rested, and as closing the controversy between the city and the Government as to the land to which the city claim was confirmed. The title to property within the limits of the city to the value of many millions rested upon this recognition.

The supreme court of the State of California unanimously declared that the United States had no title to the land within the limits confirmed. (Norton *vs.* Hyatt, 8 Cal., 539.) When the common council of the city, in 1855, by ordinance which was in 1858 confirmed by the State legislature, had released and granted the city title to the parties in actual possession of the land within the corporate limits of 1851, the supreme court of the State declared that this release had the effect of "*a perfect title.*" (Hart *vs.* Burnett, 15 Cal., 614.) This decision was affirmed in numerous subsequent decisions, and now rests as the settled law of California on this question.

Encouraged by the action of the General Government, the city council, the State legislature, and the decisions of the highest tribunal of their State, citizens purchased lands at Point San José, the same as in other parts within the city limits; taxes for city, county, and State purposes were levied and collected, and extensive and permanent improvements were erected on them.

In September, 1864, ten years after the decision of the United States board of land commissioners, the case, on appeal from that decision, was transferred from the district court to the circuit court of the United States. In October, 1864, it was heard by the circuit court, and *then* by stipulation filed October 31, 1864, *for the first time in that case*, the evidence of a reservation at Point San José, made by an order of President Fillmore in 1850, modified by an order in 1851, and on file in the Land Office at Washington, was produced. The decree of the circuit court, read October 31, 1864, affirmed the validity of the claim of the four square leagues of land, excepting, however, certain reservations.

On the 18th May, 1865, the final decree of the circuit court was entered, and is, after the formal part, as follows:

> The land of which confirmation is made is a tract situated within the county of San Francisco, and embracing so much of the extreme upper portion of the peninsula upon which the city of San Francisco is situated as will contain an area of four square leagues, as described in the petition. From this confirmation are excepted such parcels of land as have been *heretofore reserved for public uses by the United States*, and also such parcels of land as have been, by grant from lawful authority, vested in private proprietorship, and finally confirmed to claimants under the same by the respective tribunals of the United States. All of which excepted parcels are to be included in the area of the four square leagues when computed, and excluded from the tract hereby confirmed, as finally surveyed, either by fixed boundaries or other precise description. This confirmation is in trust for the benefit of lot holders under grants from the pueblo, town, or city of San Francisco, or from other lawful authority in that behalf, and as to any residue for the use and benefit of the inhabitants of the city.—(See the printed record of the case of The City of San Francisco *vs.* The United States, in the supreme court, p. 395.)

The United States attorney appealed to the supreme court. On behalf of the United States the case was brought up only after mandate issued out of the Supreme Court of the United States. Pending the proceedings in this case Congress passed the act of July 1, 1864, being an "Act to expedite the settlement of land titles in the State of California;" and in the 5th section all the claim of the United States to lands within the corporate limits of 1851 was relinquished to the city of San Francisco, except "all sites or other parcels of land which have been or now are occupied by the United States for military, naval, or other public uses, or such sites or parcels as may hereafter be designated by the

President of the United States within one year after the rendition to the General Land Office by the surveyor general of an approved plat of the exterior limits of San Francisco, as recognized in this section, in connection with the lines of the public surveys."

At the date of the passage of this act the United States was in possession of the extreme point of San José only, taken for the erection of a battery; nor did the President, within the time limited, designate any portion of this San José reservation, or any other parcel of land, and the act spent its force without any change in the limits of the reservation by act of the President.

Pending the appeal in the Supreme Court of the United States, Congress passed the act of March 8, 1866, 14 Stat., p. 4. This act relinquishes to the city all lands within the city of San Francisco, and all the lands confirmed by the decree of the circuit court of the United States entered May 18, 1865, "and the claim of the city is hereby confirmed, subject, however, to the reservations and exceptions designated in said decree." Upon the passage of this act a decree dismissing the appeal was entered in the case in the Supreme Court of the United States on motion of the Attorney General.

The United States claimed the land comprised in this controversy, on the ground that the same was a portion of the public domain, and having become the proprietor by reason of the transfer of California from Mexico by treaty of Guadalupe Hidalgo in 1848. On the other hand, this land was claimed as private property, belonging to the city of San Francisco, in trust for the inhabitants, made such by the laws of Mexico, dating back long before the cession to the United States, and that this right was recognized by the United States in the act passed March 3, 1851, creating a board of land commissioners to ascertain and settle private land claims in the State of California. Under this act the claim of the city was presented to the board, and was finally confirmed to the city, subject to the reservation aforesaid. In order to secure this reservation the act of March 8, 1866, was passed, otherwise the Supreme Court of the United States presumably would have held that no reservation could have been made within the limits of the four square leagues belonging to the city; certainly if the great case of New Orleans *vs.* The United States, 10 Peters, 662, had been followed, where the same question was raised, based upon similar circumstances, and upon the same precedents and authorities.

The forms of making reservations prescribed by the laws of Congress were not pursued. The authority to make reservations of the *public* lands is first found in the act of May 29, 1830, being an "Act to grant preëmption rights to settlers on the public lands." By the first section it was provided "that no entry or sale of any land shall be made under the provisions of this act which shall have been reserved for the use of the United States, or either of the several States in which any part of the public lands may be situated." In the 4th section the manner of making the reservation was prescribed, and was as follows: "Nor shall the right of preëmption contemplated by this act extend to any land which is reserved from sale by act of Congress or by the order of the President." By this act the reservation *from sale* is made by act of Congress or *order* of the President. By the act of June 19, 1834, this act was extended two years, then again continued in force two years longer by the act of June 22, 1838, and by the act of June 1, 1840, the act of 1830 was continued in force until June 22, 1842.

The practice under these acts was, for all reservations desired to be made, by an *order* signed by the President, and filed in the office of the

Commissioner of the General Land Office, and by him was transmitted by copy to the surveyor general of the State or Territory where the reservation was situated.

On the 4th of September, 1841, Congress passed the preëmption law which is now in force, and in which the manner of making reservations is changed. This act is entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preëmption rights." (5 Statutes, p. 435.) The 4th section is as follows:

SEC. 4. *And be it further enacted*, That there shall be granted to each State specified in the first section of this act, five hundred thousand acres of land for the purposes of internal improvement: *Provided*, That to each of the said States which has already received grants for said purposes, there is hereby granted no more than a quantity of land which shall, together with the amount such State has already received, as aforesaid, make five hundred thousand acres, the selections in all of the said States to be made within their limits respectively, in such manner as the legislature shall direct, and located in parcels conformably to sectional divisions, of not less than three hundred and twenty acres in any one location, on any public land except such as is or may be reserved from sale *by any law of Congress*, or *proclamation of the President of the United States*, which said locations may be made at any time after the lands of the United States in said States respectively shall have been surveyed according to existing laws; and there shall be, and hereby is, granted to each new State that shall be hereafter admitted to the Union, upon such admission, so much land as, including such quantity as may have been granted to such State before its admission, and while under a territorial government, for purposes of internal improvement as aforesaid, shall make five hundred thousand acres of land, to be selected and located as aforesaid.

This act was in force in 1850 and 1851, when President Fillmore made the *orders* of reservations. The order of November 6, 1850, made several reservations in the bay of San Francisco. The first was as follows:

1st. From a point 800 yards south of Point San José to the southern boundary of the presidio, along the southern boundary to its western extremity, and thence in a straight line to the Pacific Ocean, passing by the southern extremity of a pond that has its outlet into the channel between Fort Point and Point Lobos.

This order was filed in the General Land Office, and on the 24th June, 1851, was by Commissioner Butterfield transmitted to Samuel D. King, surveyor general for California.

It being found impossible to locate and survey the reservation aforesaid, from its indefinite description, and being represented through the Engineer Department and the Secretary of War to the President that a change of boundaries was desirable, he did, on the 31st December, 1851, make a change in the reservation so as to embrace the following two tracts:

1st. The promontory of Point José within boundaries not less than eight hundred yards from its northern extremity.

2d. The Presidio tract and Fort Point, embracing all the land north of a line running in a westerly direction from the southeastern corner of the presidio tract, to the southern extremity of a pond lying between Fort Point and Point Lobos, and passing through the middle of said pond and its outlet to the channel of entrance from the ocean.

This was again, by *order* of the President, filed in the General Land Office, and by the Commissioner transmitted to the surveyor general for California, where it was placed in a pigeon-hole, and not again brought out until October 31, 1864. The first order included nothing, nor could anything be defined under it. The second order was made *after the act of* 1851 *was passed*, whereby the claim of the city to her land was recognized, and indeed set up before the Commissioner. Before this order reached California the lands at Point San José were settled upon under possessory rights recognized by the city, some time in the year 1852, by Leonidas Haskell, esq., and were in his possession and control. He afterward acquired the title of the city under the city ordinance and act

of the legislature before mentioned, and the memorialists claim title under him.

In the year 1859, W. H. J. Brooks, esq., a searcher of land titles in San Francisco, of long experience in the business, was employed to search the title to lands at Point San José, and having made diligent search among the city records, the records in the surveyor general's office and in the United States engineer's office at San Francisco, reported that he could find nothing whatever showing that the United States had any title, or in any way made claim to the lands at this point, and gave his opinion that the title of those who claimed under the city was perfect. His affidavit to the facts of his search and report are on file among the papers filed by the memorialists. Upon the strength of his report, and by the advice of lawyers employed for the purpose of examining the title, purchases of land at this point were freely made, houses and factories were built, money was loaned on mortgage.

In 1863 the General-in-chief of the Army sent a dispatch to the commanding general at San Francisco, of which the following is a copy:

WASHINGTON, D. C., *October* 2, 1863.

The Secretary of War directs that you take military possession of Point San José, and erect the battery proposed for its defense; the question of ownership will be determined hereafter.

H. W. HALLECK, *General-in-Chief.*

Brigadier General S. WRIGHT.

Under this order General Wright did, on the 10th October, 1863, take military possession of the extreme point only of San José, and erected a battery. This appropriated the residence of Mrs. Frémont and the dwelling-house then occupied by Obed Palmer. In 1865 General McDowell took possession of the lands of LeRoy, Eggleton, and Grisar, and forcibly ejected the owners and occupants.

It does not appear that any legal appropriation has been made of these lands to public use, nor any known mode of making such appropriation been pursued. The order of General Halleck was no appropriation for public use of the property of the citizen as the law permits or authorizes. It was only a taking of property for public use on account of military necessity, supposed or real. The orders of the President were no appropriation, but only a reservation from sale of the lands of the United States. If the Government had no land there, then certainly there was no reservation.

California was ceded to the United States by the treaty of Guadalupe Hidalgo, made February 2, 1848, proclaimed at Washington July 4, 1848, whereby all Mexicans and citizens transferred were to be protected in the "enjoyment of their liberty and property." And this right of property was to be adjudged by the laws of Mexico in force at the time of the transfer, and would so continue until changed by the United States.

On the 9th day of September, 1850, California was admitted as a sovereign State of the Union, with all the rights and privileges of any of the States of the Union. By this act the right of eminent domain was wholly extinguished in the United States, and thenceforth resided in the State of California. The United States could not after this date take private property for public use without such mode and under such laws as were provided by the State of California, nor without making compensation therefor. (New Orleans *vs.* The United States, 10 Peters, 662; Pollard *vs.* Hazen, 3 Howard, 212.)

The mere orders of the President could not reserve public lands, because the act of 1841 changed the law on the subject. It seems in this

case the President pursued the old practice set up under the act of 1830. But this was not sufficient under the act of 1841. Under this act it could only be done by act of Congress or by "*proclamation of the President.*" This would make the act a public matter of which all citizens were bound to take notice, and upon such reservation no one could acquire title. But when the orders were sent, as in this case, to the Commissioner of the General Land Office, who was bound to know them or respect them? Congress did not intend that citizens should be entrapped into making improvements upon lands, and when made that some secret order be exhumed, and the labor and money of the private citizen turned into the possession of the United States to make places of luxurious enjoyment and use for the military officers of the Government. The words "by proclamation" were intended to prevent such a contingency, and were full of meaning; they were intended to give the acts of the Executive, in respect to the public lands, as high a sanction and as public a character as the laws of Congress. Besides, the act of 1841 was passed for the benefit of the settler, to encourage the settlement, occupancy, and improvement of the public lands, and not to retard and hinder, as would have been the case if secret reservations were to be permitted and continued. Hence the act of 1841 wisely changed the law upon the subject, and the Executive could only make reservations as therein directed.

Your committee are satisfied that if this were a new question, they would be bound to hold that the memorialists had a perfect legal title to that portion of Point San José covered by their several title deeds, and that the United States was an intruder and trespasser upon their properties. There has been much litigation in the State courts; at different times injunctions were granted and judgments rendered, but were disobeyed by the military. An injunction was applied for to the United States circuit court, but was denied on the ground that the title was in dispute. To test this title, in January, 1866, an ejectment suit was brought in the United States circuit court by one of the memorialists, Emil Grisar, against General McDowell, then military commander at San Francisco, who claimed to hold the property of the memorialists under the reservation of President Fillmore, and who with his family occupied the property of said Grisar. The case of Grisar *vs.* McDowell came up to the Supreme Court of the United States, and was argued and decided at the December term, 1867. Mr. Justice Field delivered the opinion of the court. He had delivered the opinion below, as also the opinion in the case of San Francisco *vs.* The United States, in the United States circuit court for California. The court held that the United States has such title in consequence of the acts of Congress of 1864 and 1866, and the decision of the circuit court in the case of San Francisco *vs.* The United States, made final by the act of 1866, and the decree dismissing the appeal entered in pursuance thereof, that the plaintiff could not recover in ejectment. The court did not decide that the city had no title, but that the boundaries of the city's pueblo rights of four leagues were not well defined when the reservation of 1850 and 1851 was made, and hence the same was subject to the control of the Government; nor did the court decide that the reservation was made in pursuance of law, but that, as the decision of 1864 and decree of 1865 in the United States circuit court were made excepting this reservation, the court held that ejectment could not be maintained. (See the case of Grisar *vs.* McDowell, 6 Wallace, 379.)

Therefore with this decision and the acts of Congress of 1864, 1866, and 1870, it would seem that the memorialists have acted wisely in

appealing to Congress for relief, and that these facts and circumstances make a strong appeal both to the justice and magnanimity of Congress.

Although the Supreme Court has heretofore held that acts of Congress passed to control land appropriated by the laws and usage of France and Spain to the city of New Orleans for the public use of the city and her inhabitants were of none effect, nor could they change the title to land thus appropriated, (10 Peters, 663,) here a tract of land held under the title of the city of San Francisco, and owned by several parties, has been taken, fifty acres of it still held and occupied by the Government, with the valuable improvements upon it. If the United States require this for military purposes, compensation should, as a matter of right and common justice, be made to the owners. Fair dealing and ordinary justice require this.

The Presidio reservation rests upon an entirely different footing. It was known under the Mexican government, and was commenced with the town or pueblo. With the pueblos founded in California there was the Mission, the Presidio, and the four square leagues of land. The Government acquired the right to the Presidio as a public reservation from Mexico, and from the time of the cession to the present time the United States have occupied this reserve. Its lines have been well defined; it has been under fence ever since California came into our possession, and has been securely guarded by the military.

But from the time of the acquisition of California to 1863, when the extreme northern point of San José was taken possession of, and to the 31st day of October, 1864, no claim was ever made to this point by any one representing the Government. Citizens commenced its improvement in 1852; from that time to 1863 and later, their occupancy was open and notorious, and in plain view of the United States officers and men at the Presidio. No one making improvements at Point San José was ever notified of any claim on the part of the Government. Those who erected their homes here were suffered to believe that they owned their lands and houses. These houses all remain, except the dwelling of Mrs. Frémont, which was torn down to make room for the battery, and some barns and stables, which, after military occupation was taken, were accidentally burnt. These dwellings were the homesteads of the owners—were their all. In some cases the parties are now only holding on to their property by means of an equity of redemption under the foreclosure of mortgages.

By the act passed at the last session of Congress, relief was granted to the owners of the larger part of the land within the original lines of the reservation; their lands were restored to them, but the memorialists find themselves specially excluded from that relief.

It is for Congress to say whether this relief shall be granted by restoring the property to the owners, or so much of it as can be dispensed with, or whether they shall be paid a compensation therefor. It is believed by apparently well-informed persons that the Government will not require all the land now retained for the successful use and working of the batteries and military works on this point, and that therefore a portion can be restored; but your committee believe that this matter should be left to the discretion of the Secretary of War. The dwelling-houses left standing have been used for officers' quarters; the house of one of the memorialists, Mr. Grisar, is used by General Ord for his headquarters and residence, and all the improvements have been useful to the Government. On this subject General Ord, in a letter of the date of November 9, 1868, says of the improvements, that "they are important and useful now as quarters for officers and men, which, if

they had not existed when the Government took possession of the point, would have had to have been erected at considerable expense."

The equitable character of the claim of the memorialists, it seems to your committee, is strong and of pressing urgency. A great and just government cannot shut its eyes to injury thus brought upon its citizens, and will not.

Mr. Justice Field, of the Supreme Court, who has had the claim to the land at Point St. José before him several times for adjudication, and who has personal knowledge of the circumstances, in a letter dated May 8, 1868, addressed to Senators Williams and Stewart, on file with the papers in this case, says: "It presents a case of much hardship to Mr. Steinbach, Mrs. Frémont, and others who were naturally misled by the action of the Government in withdrawing its appeal from the decree of the board of land commissioners. They had, from this proceeding, some reason to expect that in the ultimate determination of the city claim (if found valid for any purpose) it would embrace at least such quantity as had been confirmed by that decree. The Government has seldom refused relief in such cases, when it could be granted consistently with the public interests."

And your committee coincide in opinion with Mr. Justice Field, and believe that relief can be granted without detriment to the public interests. The question is then presented to your committee as to what relief shall be granted, and how. This can be done, of course, by an assessment of the value of the land and improvements, and payment therefor in money; or the Government can, at the discretion of the Secretary of War, relinquish the whole of the property, or such portion of it as may not be required for military purposes. This property being within the city limits, with streets laid out over and through it, and being valuable for residence and other lots, it would seem best to relinquish to the owners the greater part of it; but your committee do not propose to interfere with the sound discretion of the military authorities in that behalf.

Your committee herewith present a bill, as part of their report, which proposes to restore the property, if found that the military service can dispense with it; but if not, its value is to be ascertained by a board of officers or commissioners, to be convened by the Secretary of War, who shall hear testimony, decide, and report their award with all the testimony, subject to review of the Secretary of War. In this mode of arriving at the proper value, your committee believe the advantage, if any, will be on the side of the Government, and no more than the true amount of damages will be likely to be awarded.

The proposition for the sale of a portion of the Presidio tract is a matter not essential to the relief to be granted, as the Government should pay its just obligations, whether it can or cannot make sale of its public lands. It, however, is a mode of making the adjustment that will at once enable the parties to secure other homesteads in an adjacent portion of the city in which they earn their living in lieu of those they were deprived of, and at the same time turns a useless and barren tract of land into the means not only to discharge these obligations, but also to put money into the Treasury.

The military reservation at the Presidio of San Francisco, to which the title of the United States is unquestionable, contains fifteen hundred and forty-one acres, an extent of territory far beyond the requirements of the Government for military or other purposes. The existence of a similar tract of land, occupied solely by a few companies of soldiers, and as a pasture for a few horses, if situate within the limits of the cities

of New York or Boston, would constitute an intolerable nuisance. We must suppose that this one is so considered by the people of San Francisco, for whose protection military posts in that harbor are maintained. While all the military reservations in the harbor of New York contain less than four hundred acres, the Government now holds military reservations in the harbor of San Francisco containing in the aggregate more than three thousand acres.

The sale at the present time of at least a portion of the reservation at the Presidio, adjoining the city limits, is by your committee considered desirable and useful, and therefore recommended.

The mode of sale provided for in the bill herewith submitted will most effectually insure the realization of the highest obtainable prices for these lands, and is in harmony with established precedent. The proceeds of the sale are to be paid into the Treasury of the United States, after a proper compensation shall have been paid to the persons who have suffered losses by the taking of their lands at Point San José, for public use, if the Secretary of War shall deem it necessary to retain possession thereof for military purposes. Thus their homesteads will either be restored to these persons, or an opportunity be offered to them to secure other ones in lieu thereof.

The reservation at the Presidio of San Francisco, after the disposal of the larger quantity of land which the Secretary of War is by this bill authorized to sell, will still contain more than one thousand acres; it is left for future legislation to still further reduce this amount.

Your committee, having carefully weighed every circumstance, having sought to arrive at just and proper conclusions, with due regard to the interests of the Government on the one hand, and the rights and claims of her citizens on the other, do respectfully recommend the passage of the accompanying bill.

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41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 5.

CHEROKEE NEUTRAL LANDS.

[To accompany bill H. R. No. 1074.]

JANUARY 11, 1871.—Ordered to be printed and recommitted to the Committee on Indian Affairs.

Mr. ARMSTRONG, from the Committee on Indian Affairs, made the following

REPORT.

The Committee on Indian Affairs, to which was referred bill (H. R. No. 1074 "To dispose of the Cherokee neutral lands in Kansas to actual settlers only," submitted the following report:

The "Cherokee neutral lands" is a tract of about 800,000 acres, (the exact quantity is 799,615,18 acres,) lying in the southeast corner of the State of Kansas, extending fifty miles north and south, and twenty-five miles east and west. It is part of the "Louisiana purchase," the title to which the United States derived from France by the treaty of April 30, 1803. It has been uniformly held to be perfect and indefeasible. The United States has, however, recognized in the Indians a "right of occupancy," which has been so far respected that the lands occupied by them have never been opened to settlement until this right, commonly known as the "Indian title," has been extinguished. This has always been with the consent of the tribes in occupancy, and with few, if any exceptions, in the form of a treaty. These treaties, with even the weakest of the tribes, have been recognized by every department of the Government, and have been rigidly and uniformly enforced against them.

The Indian title to the land in controversy was extinguished by the treaty of June 2, 1825, (7 Stat. L., page 240,) with the Osage Indians, who then occupied it, and who, pursuant to the treaty, relinquished the possession, and removed from the lands.

Thus the United States were in position to give both title and possession to whomsoever, and upon such consideration as, they chose to convey.

Two parties assert title: James F. Joy, representing the Fort Scott and Gulf Railroad, who claims that the United States conveyed the lands to the Cherokees by treaty of 1835, and by patent pursuant thereto in 1838. That the Cherokees, by the treaty of 1866, reconveyed the same to the United States, as trustee, to make sale thereof; and that the United States, in execution of the trust, sold the same to him by agreement, dated the 9th day of October, 1867; that having purchased the land, he has paid the purchase money in full; has entered into possession of the land, and has, at a cost of over $5,000,000 constructed through its entire length a railroad, part of a through line from Kansas to the Gulf.

He does not assert title to such part of the land as was occupied by actual settlers prior to August 11, 1866, the date of the ratification of

he treaty by which the Cherokees conveyed the land to the United States in trust to sell. This land was reserved from the contract, and patents are being issued to the settlers as fast as they make payment.

The sale thus made to Joy was modified as to the terms of payment by supplementary treaty between the United States and the Cherokees, of April 27, 1868, duly ratified by the Senate, and accepted by Joy, and under it patents have been issued to him for all the land embraced in the contract.

He further claims that the "settlers" who entered subsequently to August 11, 1866, are mere intruders, who entered without right and with full notice of the Cherokee title, and who have acquired no rights which they can maintain against the title vested in him by the patents of the United States.

The counter-claim is on behalf of the "settlers," who it is alleged entered upon the lands in good faith as preëmptors, and who, by virtue of their settlement, have acquired the right to purchase from the United States, and receive title under the preëmption laws, at the rate of $1 25 per acre.

It is also claimed that all the Cherokee neutral lands not occupied by actual settlers are subject to selection under the general preëmption laws.

Such claims on behalf of the settlers have been persistently pressed upon the Land Office ever since the treaty of 1866, and have been uniformly rejected.

The bill now under consideration (H. R. 1074) proposes to leap over all questions of title and vested rights under the treaties and patents of the United States, and by legislative construction and by authority of law, to declare the patents of the United States, duly executed and delivered to James F. Joy, to be null and void. It proposes to withdraw from the courts the consideration of the conflicting rights of the contesting parties, and to compel the officers of the Government to execute and deliver other conveyances of title to the same land to persons who claim adversely, and who will set up the second deed to defeat the first, thereby subjecting the Government to claims for damages from one party or the other, and placing the Government in the discreditable position of accepting, with full notice, purchase-money from two adverse claimants of the same land, and delivering a deed to both.

In the view of your committee the title is vested in James F. Joy, and the settlers who entered after August 11, 1866, are trespassers who have no title which they can maintain against him. But be this as it may, the question is *now pending* in Kansas, in both the federal and State courts, in several actions which have been there instituted for the purpose of trying the title, and in which the whole question will be judicially considered and determined. In the judgment of your committee it is not only inexpedient to pass the proposed bill, by reason of its great injustice, but because the question is preëminently one for judicial determination, and because, whatever title is vested in Joy, is a vested right which no subsequent legislation can impair, and the determination of which cannot be withdrawn from the courts.

A brief review of the facts, it is believed, will fully justify these conclusions.

The Cherokees, a very numerous and warlike tribe of Indians, were originally located in Georgia. Part of the tribe, from time to time, removed west of the Mississippi, and were scattered over a large extent of territory, but were finally gathered within the limits of Arkansas, upon reservations secured to them by the treaties of January 8, 1817,

and February 27, 1819, and now known as the "Cherokee country," as distinguished from the "Cherokee neutral lands." A large part of the tribe, however, remained in Georgia.

The progress of civilization in that State, and the constantly recurring conflicts between the Indians and the settlers, resulting frequently in armed collisions, rendered it a matter of national importance that the Indians should be removed. To effect this object the treaty of May 6, 1828, (7 Stat. L., 310,) was entered into, the preamble of which recites that—

Whereas it being the anxious desire of the Government of the United States to secure to the Cherokee Nation of Indians a permanent home, and which shall, under the most solemn guarantee of the United States, be and remain theirs forever—a home that shall never in all future time be embarrassed by having extended around its lines, or placed over it, the jurisdiction of a State or Territory, nor be pressed upon by the extension over it in any way of the limits of any existing State or Territory—the parties hereto do conclude the following articles, viz:

By this treaty it was provided—

ARTICLE 2. The United States agrees to possess the Cherokees, and to guarantee it to them forever, and that guarantee is hereby solemnly pledged, seven millions of acres of lands, to be bounded as follows: (The boundary then follows; not necessary to insert here.)

The article then goes on as follows:

In addition to the seven millions of acres thus provided for and bounded, the United States further guarantees to the Cherokees a perpetual outlet west, and free and unmolested use of all the country lying west of the western boundary of the above-described limits.

By article three of the treaty the United States agrees to remove all white persons, and all others not acceptable to the Cherokees, from said tract of land.

ARTICLE 7. The chiefs and head-men of the Cherokee Nation aforesaid, for and in consideration of the stipulution and agreements, do hereby agree, in the name and in behalf of their nation, to give up and surrender to the United States, and to leave the same within fourteen months, all the lands they are entitled to in Arkansas, and which were secured to them by the treaty of January 8, 1817, and the convention of the 27th of February, 1817.

Article eight recites that the Cherokee Nation west of the Mississippi, having by this agreement secured themselves from the harassing and ruinous effects consequent upon a location amid a white population, and secured to themselves and their posterity, under the solemn sanction of the guarantee of the United States, as contained in this agreement, a large extent of unembarrassed country, &c.

The supplementary treaty of February 14, 1833, (7 Stat. L., 414,) modified the boundaries of the "Cherokee country," but reaffirmed the grant, as follows:

ARTICLE 1. The United States agree to possess the Cherokees, and guarantee to them forever, and that guarantee is hereby pledged, of seven million acres of land, to be bounded as follows, viz:

(Here follow the boundaries, not important in this connection.)

The Cherokees west of the Mississippi were gathered within this territory; but those in Georgia, for the most part, remained within that State. The conflicts with the settlers increased in frequency and violence until, in President Jackson's administration, they were finally, and with force, removed, under the treaty of December, 1835, (7 Stat. L., 478.) By this treaty—

ARTICLE 1. The Cherokee Nation hereby cede, relinquish, and *convey to the United States all the lands* owned, claimed, or possessed by them east of the Mississippi River,

and hereby *release all their claims* upon the United States for spoilations of every kind, for and in consideration of the sum of *five millions of dollars*, to be expended, paid, and invested in the manner stipulated and agreed upon in the following articles:

Article two refers to and reaffirms the treaties of May, 1828, and February, 1833, whereby *seven millions* of acres of land, with a perpetual outlet west, is conveyed and guaranteed to the Cherokees, and then provides conveyance of eight hundred thousand acres more, being the land embraced within the bill, (H. R. 1074,) and now known as the "Cherokee neutral lands," in the following terms:

And whereas it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation, on their removal west of the Mississippi, the United States, in consideration of the sum of five hundred thousand dollars therefor, hereby covenant and agree to convey to the said Indians and their descendants, *by patent in fee simple*, the following additional tract of land, situated between the west line of the State of Missouri and the Osage reservations, beginning at the southeast corner of the same, and running north along the east line of the Osage lands fifty miles to the northeast corner thereof, and thence east to the west line of the State of Missouri, thence with the said line south fifty miles, thence west to the place of beginning; estimated to contain eight hundred thousand acres.

Article two provides—

The United States also agree that the lands above ceded by the treaty of February 14, 1833, including the outlet and those ceded by this treaty, shall all be *included in one patent executed to the Cherokee Nation of Indians by the President of the United States, according to the provisions of the act of May* 28, 1830.

By the act of Congress of 1830 it was provided—

SECTION 3. *And be it further enacted*, That in the making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guarantee to them and their heirs or successors the country so exchanged with them; and if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided always*, That such lands shall revert to the United States if the Indians become extinct or abandon the same.

By the act of July 2, 1836, "making appropriations for carrying into effect certain Indian treaties," there was appropriated—

For the amount stipulated to be paid for the lands ceded in the first article of the treaty with the Cherokees of December 29, 1835, *deducting* the cost of the land to be provided for them west of the Mississippi, under the second article of said treaty, *four* million five hundred thousand dollars.

Thus the transaction was complete. It was a valid contract between competent parties, and upon sufficient consideration. The Cherokees received $500,000 less in money, and 800,000 acres more in land. The titles and possession of the land were reciprocally exchanged, and from that time down to the present controversy both parties to the contract have been mutually satisfied, and neither has questioned the title of the other, and both do now insist that the titles thus passed were and are perfect and indefeasible.

To this, the alleged "settlers," who have no priority of title with either, and are repudiated by both, set up an *inchoate* title by virtue of a plain trespass upon lands on which they entered by force or by stealth, against the well-known prohibition of all the parties in whom there could be the slightest pretense of title.

The title of the Cherokees was as perfect by virtue of the treaty alone as that of the United States to the "Louisiana purchase," of which it is a part, and which rested upon treaty only; but so anxious were the United States to satisfy the Indians beyond the possibility of a doubt, that upon the exchange of lands their title should be perfect, that it was provided in the act of Congress of 1830, and paramount to this act embodied in the treaty of 1835, that "if they (the Indians) prefer it,

that the United States will cause a *patent or grant* to be made and executed to them for the same." This was not necessary to the perfecting of their title, but it was done. The patent of the United States, dated December 31, 1838, and recorded in the Land Office at Washington, was duly executed and delivered to the Cherokees, the granting clause of which is as follows:

> Therefore, in execution of the agreements and stipulations contained in the said several treaties, the United States *have given and granted, and by these presents do give and grant*, unto the said Cherokee Nation the two tracts of land so surveyed and hereinbefore described, containing in the whole 13,374,135$\frac{14}{100}$ acres, to have and to hold the same, together with all the rights, privileges, and appurtenances thereunto belonging, *to the said Cherokee Nation forever*, subject, however, to the right of the United States to permit other tribes of red men to get salt on the salt plain on the Western Prairie, referred to in the second article of the treaty of the twenty-ninth of December, one thousand eight hundred and thirty-five, which salt plain has been ascertained to be within the limits prescribed for the outlet agreed to be granted by said article, and subject also to all the other rights reserved to the United States in and by the articles hereinbefore recited, to the extent and in the manner in which the said rights are so reserved, and subject also to the condition provided by the act of Congress of the 28th of May, 1830, and which condition is, "that the lands hereby granted shall revert to the United States if the said Cherokees become extinct or abandon the same."

Thus the title to the Cherokee neutral lands became vested in the Cherokee Nation. It is, as already stated, a compact body of 800,000 acres of land in the extreme southeast corner of the State of Kansas, fifty miles long from north to south, and twenty-five wide. It lies in the direct course of the most available railroad route from Kansas City to the Gulf, and by which Kansas is eight hundred miles nearer to tidewater than by any other possible route. The road is already built through its entire length, at a cost of more than $5,000,000. The lands of the company upon which this money was raised, are secured by a first mortgage of both the railroad and the lands, and are held, as such lands usually are, by thousands who are dependent upon them for their means of support. The company has also, in full reliance upon their title, sold many thousands of acres to probably not less than a thousand settlers, who have paid their money and taken title from the company. To destroy their title would be an act of the grossest injustice; and to cloud it with suspicion, a wrong wholly without justification, tending to retard the development of the country, and working extensive injury to the material interest of that portion of the State.

Nor have the trespassing settlers any just cause for complaint. The company has offered to them titles at less than the current rates of sale and less than the real value of the land; and many who have accepted these terms have resold their land, enhanced as it is by the railroad, at large advance upon their purchase price. Neither are they entitled to either sympathy or favor. It seems to your committee like a scheme for getting farms for $1 25 per acre, which, by reason of the labor and capital of others, they know to be of much greater value. There is probably not a settler on the land but knew of the Cherokee title, and the provision of the treaty which required the United States to keep her citizens off the land, under the sixth article of the treaty of 1835, which requires "the United States to protect the Cherokee Nation against interruption and intrusion from citizens of the United States, who may attempt to settle in the country without their consent."

This provision was rigidly enforced, and the fact nowhere better known than on the neutral lands and its vicinity, until, on the breaking out of the rebellion in 1861, the Government was compelled by the exigencies of the times to relax its supervision. Up to that time no settlers entered upon the territory but with the consent of the Cherokees.

And the committee is not informed that any settlers who were located prior to August 11, 1866, are asking the intervention of Congress.

During the unsettled condition of the country consequent upon the rebellion, many settlers entered upon the lands without consent of the Cherokees, and with no acknowledged rights from any source. Those, however, who entered prior to August 11, 1866, are fully protected and make no complaint.

The treaty of 1835 was proclaimed on the 23d May, 1836, and was not only legal and constructive notice to all the world, but as matter of fact the exclusive title and possession of the Cherokees was well known to all who entered upon the premises, and had been for more than thirty years not only claimed by them, but defended by the United States by the garrisons of troops sent there for the express purpose, as required by treaty, of keeping off unauthorized settlers. When the troops were necessarily withdrawn to serve elsewhere, these rich and valuable lands presented temptations to unscrupulous men too strong to be resisted. As the number of intruding settlers increased it became manifest to the Cherokees, who were unable to resist them, that their treaty rights therein would no longer be respected, and could only be maintained by the armed intervention of the Government. Under these circumstances they wisely determined to sell this portion of their territory, and made with the United States the treaty of July 19, 1866; (14 Stat. L., 799.)

Through every part of this treaty, the stipulations of all previous treaties, and the exclusive ownership of all the land conveyed to them by patent is everywhere recognized and admitted; nor does the United States in this treaty, nor have they at any time since the granting of the patent claimed or exercised any right of property over the same except the small parcels reserved in the treaty for Government use over the same, but only such governmental jurisdiction as they exercise in common over all the States and Territories. In the 26th article the express guarantee of former treaties is again reiterated, and "The United States guarantee to the people of the Cherokee Nation the quiet and peaceable possession of their country," * * * and that "they shall also be protected against interruptions or intrusion from all unauthorized citizens of the United States who may attempt to settle on their lands or reside in their territory." This provision is in full force, as all the territory conveyed to the Cherokees by the patent of 1838, except the 800,000 acres which by the terms of the treaty of 1866 they reconveyed to the United States in trust, as follows:

ARTICLE 17. The Cherokee Nation hereby cedes, in trust, to the United States the tract of land in the State of Kansas, which was sold to the Cherokees by the United States under the provisions of the second article of the treaty of 1835, and also that strip of land ceded to the nation by the fourth article of said treaty which is included in the State of Kansas; and the Cherokees consent that said lands may be included in the limits and jurisdiction of the said State.

The lands herein ceded shall be surveyed as the public lands of the United States are surveyed, under the direction of the Commissioner of the General Land Office, and shall be appraised by two disinterested persons, one to be designated by the Cherokee national council, and one by the Secretary of the Interior; and in case of a disagreement, by a third person, to be mutually selected by the aforesaid appraisers; the appraisement to be not less than an average of one dollar and a quarter per acre, exclusive of improvements.

And the Secretary of the Interior shall, from time to time, as such surveys and appraisements are approved by him, after due advertisements for sealed bids, sell such lands to the highest bidders, for cash, in parcels not exceeding one hundred and sixty acres, and at not less than the appraised value: *Provided*, That whenever there are improvements of the value of fifty dollars made on the lands, not being mineral, and owned and personally occupied by any person for agricultural purposes at the date of the signing hereof, such person so owning and in person residing on such improve-

ments shall, after due proof, made under such regulations as the Secretary of the Interior may prescribe, be intitled to buy, at the appraised value, the smallest quantity of land in legal subdivisions, which will include his improvements, not exceeding in the aggregate one hundred and sixty acres; the expenses of survey and appraisement to be paid by the Secretary out of the proceeds of sale of said land:

Provided, That nothing in this article shall prevent the Secretary of the Interior from selling the whole of said lands not occupied by actual settlers at the date of the ratification of this treaty, not exceeding one hundred and sixty acres to each person entitled to preëmption under the preëmption laws of the United States, in a body, to any responsible party, for cash, for a sum not less than one dollar per acre.

This treaty was proclaimed August 11, 1866, and was a full acceptance by the United States of the trust upon the conditions expressed. By every principle of equity they must execute it according to its terms, or surrender the trust unimpaired to their grantor. They have no discretionary power to change its conditions, or for any reasons of real or supposed expediency to dispose of it otherwise than the treaty directs.

Any attempt on the part of Congress to declare this title void and grant another title to other and adverse parties would be a flagrant breach of trust, in direct violation of its plighted faith.

The United States having thus on the 11th of August, 1866, accepted the trust proceeded to sell the lands.

On the 30th of the same month, Mr. Harlan, then Secretary of the Interior, made an agreement of sale of the land to the American Emigrant Company. But the validity of this sale was always doubted, and on October 4, 1866, Attorney General Stanbery held it to be null and void for non-compliance with the provisions of the treaty of 1866.

The land was then again offered for sale by Secretary Browning, who states (see Ex. Doc. No. 85, second session fortieth Congress) as follows:

I suggested and urged, at the last session of Congress, that the United States should become the purchaser at one dollar per acre, and issue bonds in payment thereof. Such a proposition was, I believe, submitted to Congress, but not accepted.

After the adjournment of Congress I authorized an unofficial statement to be made in newspapers that the proposals for the purchase of said lands in a body would be received at the Department until the 1st of October.

Early in October Mr. James F. Joy, of Detroit, Michigan, proposed to take the lands in a body at $1 per acre, and pay the cash for them.

No other offer was made. I accepted Mr. Joy's, and concluded a contract with him, from which all lands occupied by actual settlers at the date of the ratification of the treaty were excluded. A copy of the contract is herewith furnished.

There being no other bids, the Secretary, October 9, 1867, made with him the following contract:

This agreement, made and entered into this ninth day of October, in the year of our Lord one thousand eight hundred and sixty-seven, by and between Orville H. Browning, Secretary of the Interior, and James F. Joy, of the city of Detroit, in the State of Michigan, witnesseth: Whereas, by the seventeenth article of a treaty between the United States of America and the Cherokee Nation of Indians, made and concluded on the nineteenth day of July, A. D. 1866, and proclaimed on the eleventh day of August in said year, and the two several provisos to the said section annexed, there were ceded in trust to the United States certain parcels of land therein mentioned, with power to the Secretary of the Interior to sell all of the said ceded lands, with the exception of such parts thereof as are embraced within the tenor and effect of the said two provisions to the seventeenth article of said treaty, for cash, for the sum of not less than one dollar per acre; and whereas the said James F. Joy has proposed to become the purchaser of said lands, and has for that purpose offered to pay therefor the sum of one dollar per acre in cash, which is, in the opinion of the Secretary of the Interior, an eligible and satisfactory price for the same; and whereas the quantity of land embraced within the exception as aforesaid is as yet unascertained, by reason whereof the number of acres of said ceded lands which the Secretary of the Interior is authorized to sell in the manner and at the price aforesaid remains for the present unknown:

Now, therefore, I, Orville H. Browning, Secretary of the Interior, acting for and on behalf of the United States, and by virtue of the power upon me by the said treaty in that behalf conferred, do hereby agree to and with the said James F. Joy, to sell unto

him, his heirs and assigns, all of the hereinbefore-mentioned lands, which were by the seventeenth section of said treaty ceded in trust to the United States, with the exception of such parts thereof as are embraced within the tenor and effect of the said two provisos to the seventeenth section of said treaty, and which parts of said ceded lands are not included in this contract, at and for the sum of one dollar per acre in cash, payable and to be paid as soon as the number of acres hereby contracted to be sold is ascertained, and that on the full payment of the said purchase-money a patent or patents shall be in due form issued granting the same unto the said James F. Joy, his heirs and assigns: *Provided, however*, That this contract is made subject to the rights reserved by the nineteenth article of said treaty to such of the Cherokees as, being heads of families, resided, at the date of the ratification of said treaty, on any of the said ceded lands.

And the said James F. Joy hereby, on his part, agrees to pay unto the Secretary of the Interior, or to such other officer of the Government of the United States as may be authorized to receive the same, the sum of one dollar in cash for each acre of land by this instrument contracted to be sold, as soon as the number of said acres shall be ascertained, and also to pay, for the benefit of such of the Cherokees as, being heads of families, resided on any of the said ceded lands at the date of the ratification of said treaty, and desire to remove from the same, the value of their improvements thereon reserved to them by the nineteenth article of said treaty, as soon as such value is ascertained in the manner provided in said article.

In witness whereof I, Orville H. Browning, Secretary of the Interior, have subscribed my name and caused the seal of said Department to be affixed hereunto; and the said James F. Joy has hereto on his part, subscribed his name. All done in duplicate the day and year first above written.

[SEAL.]

O. H. BROWNING,
Secretary of the Interior.
JAMES F. JOY,
By N. BUSHNELL, *his Agent.*

The Emigrant Society then came forward and asserted title under their contract of August 30, 1866. Mr. Joy immediately offered to surrender his contract, but Secretary Browning refused to accept it, and notified him that he would be held to its fulfillment.

Subsequently Mr. Joy and the Emigrant Company, with the consent of the United States and of the Cherokees, compromised their dispute and the Emigrant Company transferred, June 6, 1868, all their right, title, and interest, whatsoever, to Mr. Joy. The arrangement was fully and formally ratified by the supplemental treaty of April 27, 1868, in which it is expressly provided that said Joy shall "assume and perform all obligations of the said American Emigrant Company, under said first-named contract, as hereinafter modified."

The contract and assignment referred to are as follows:

This agreement, made this 30th day of August, A. D. 1866, by and between James Harlan, Secretary of the Interior, on behalf of the United States, of the one part, and the American Emigrant Company, a corporation chartered and existing under the laws of the State of Connecticut, of the other part—

Witnesseth: That the said Harlan agrees to sell, and hereby doth sell, to the said company all that tract of land known as the "Cherokee neutral lands," in the State of Kansas, containing (800,000) eight hundred thousand acres, more or less, with the limitations and restrictions set forth in the seventeenth article of a treaty between the United States and said Cherokee Indians, ratified on the 11th day of August, A. D. 1866, as amended by the United States Senate, with all the beneficial interest therein, at the rate of one dollar per acre in lawful money of the United States, to be paid to the Secretary of the Interior in trust for said Indians as hereinafter set forth, viz: Twenty-five thousand dollars on the execution hereof, twenty-five thousand dollars on the approval of the surveys of said lands by the Commissioner of the General Land Office, and twenty-five thousand dollars on the 30th day of August, 1867; seventy-five thousand dollars on the 30th day of August, 1868, and seventy-five thousand dollars on the 30th day of August, 1869; seventy-five thousand dollars on the 30th day of August, A. D. 1870, and one hundred thousand dollars per annum thence afterward until the whole shall be paid; each of said several sums to draw interest at the rate of five per cent. per annum from the date of the approval of the surveys aforesaid.

The said American Emigrant Company agree to pay the said several sums of money, with interest thereon as aforesaid, to the said Secretary in Washington in lawful money of the United States as the same shall become due; the said interest on each and all deferred payments to be paid annually on the first day of July. The United States agree to cause said lands to be surveyed as public lands are usually surveyed in one

year from the date hereof, and on the payment of fifty thousand dollars to set apart for said company a quantity of said lands in one body in as compact form as practicable, extending directly across said tract of land from east to west and containing a number of acres equal to the number of dollars then paid, and from time to time to convey the same by patent to said company, or its assigns, whenever afterward requested so to do, in such quantities by legal subdivisions as said company shall indicate; and on the payment of each additional installment, with interest as herein stipulated, to set apart for said company an additional tract of land in compact form, where said company may request, but extending directly across the said neutral lands from east to west, containing a number of acres equal to the number of dollars of principal thus paid, and to convey the same to said company or its assigns as hereinbefore described; and so on from time to time until the whole shall be paid; and no conveyance of any part of said lands shall be made until the same shall be paid for as provided in this agreement; but said company may make payments at earlier periods than those indicated, or pay the whole, principal and interest, and receive titles of tracts of land accordingly, if they shall so elect.

In witness whereof said Harlan has hereto affixed his name and the seal of the Department of the Interior of the United States, and the said Emigrant Company has also, by Franklin Chamberlin, a director of said company, thereto lawfully authorized by vote of said company, (copy whereof is hereto annexed,) and affixed the name and seal of said company the day and year first above written.

Executed in presence of—

W. PENN CLARKE.

JAMES HARLAN,
Secretary of the Interior.

[SEAL.]

AMERICAN EMIGRANT COMPANY,
By F. CHAMBERLIN,
Director and Attorney in fact.

HARTFORD, CONNECTICUT, *June* 6, *A. D.* 1868.

For value received, the American Emigrant Company, a corporation chartered and existing under the laws of the State of Connecticut, do hereby assign and transfer unto James F. Joy, of the city of Detroit, Michigan, all the right, title, claim, or interests which the said American Emigrant Company has in or to a certain contract made and entered into on the 30th day of August, eighteen hundred and sixty-six, with James Harlan, Secretary of the Interior, on behalf of the United States, for the sale of the Cherokee neutral lands, and do transfer to said James F. Joy the credit and benefit of the twenty-five thousand dollars which was paid to the Secretary of the Interior in trust for said Indians at the execution of said contract on the 30th day of August, eighteen hundred and sixty-six, and to be applied as a portion of the seventy-five thousand dollars named in article first of the modifications in the supplemental article to a treaty dated April 27, eighteen hundred and sixty-eight, signed by N. G. Taylor, commissioner, and others.

In witness whereof the American Emigrant Company has hereto, by the hand of George M. Bartholomew, president of said company, thereto duly authorized, duly affixed its name and seal the date and year first above written.

[SEAL.]

THE AMERICAN EMIGRANT COMPANY,
By GEO. M. BARTHOLOMEW,
President.

Witness:

J. B. GRINNELL.

[U. S. revenue five-cent stamp.]

The modifications made by the treaty of 1868 are

1st. That within ten days from the ratification of this supplemental article the sum of $75,000 shall be paid to the Secretary of the Interior as trustee for the Cherokee Nation of Indians.

2d. That the other deferred payments specified in said contract shall be paid when they respectively fall due, with interest only from the date of the ratification thereof.

This treaty was ratified by the Senate on the 6th day of June, 1868.

The "neutral lands" have been ascertained by the final and corrected statement to contain, exclusive of certain reservations, 794,053.71.

	Acres.
Of this there were awarded to settlers,	154, 395. 12

To James F. Joy, under his contract, by—

	Acres.
Patent dated October 31, 1868	108, 169. 71
Patent dated January 6, 1869	3, 491. 48

	Acres.	Acres.
Patent dated February 19, 1869.....	113,478.32	
Patent dated November 2, 1870.....	414,519.08	
		639,658.59
		794,053.71

Of the amount awarded to settlers 149,644.68 acres have been paid for and patented to them, realizing the aggregate sum of $286,948 19¼, leaving on the 1st November, 1870, 4,750.44 acres, appraised at $9,938 82, for which the Government is ready to issue patents to the settlers entitled when the purchase-money is paid.

For the part patented under the Joy contract he has paid to the Department in *full payment for the land*.....	$638,893 68
With interest on deferred payments amounting to.....	47,627 27
Total.....	586,520 95

The whole number of settlers on the 11th August, 1866, was ascertained to be 1,031. At the present time it is supposed there are about 2,500. Deducting the 1,031 who are provided for by the treaty of 1866, there remains about 1,500 who seek title from some source to their respective settlements. Of these, as stated by Mr. Joy, about 900 have taken title, or contracted for title from him. The balance, numbering about 600, are represented here by an agent who denies, on their behalf, the validity of all the action of the United States respecting these lands, for more than half a century, not only in its treaties, but in its contracts and patents, and asks Congress to declare them all to be null and void and of no effect.

It is respectfully submitted that this extraordinary position is wholly untenable. It is in direct conflict with the policy and practice of the Government from its earliest history. It contravenes the clearest decisions of the courts, and the fixed principles of equity and common justice, and would involve the Government in the most flagrant repudiation of its contracts and the violation of its plighted faith.

The title of the Cherokees, whether regarded as a treaty or patent title, or both, rests essentially upon the treaty of 1835, and either is amply sufficient. Both parties were fully competent to contract, and they did contract. As a treaty title it is precisely similar to that by which the United States holds the "Louisiana purchase," Florida, California, and Alaska. The patent title was merely cumulative, the title was perfect without it. The Indian tribes have been treated by the Government as distinct nationalities, and it is too late, as respects any past transaction, to reverse the action. It is for Congress, in the exercise of its political sovereignty, to say when they will cease to recognize the tribes as distinct powers and absorb them into the general mass of citizens. But until it is done, all departments must respect and abide by the contracts which have been made with them. The Government having realized the advantages of the contract, cannot repudiate its obligations. Such new policy for the future is reasonable and proper, but as applied to the past is full of repudiation and dishonor.

In Cherokee Nation *vs.* The State of Georgia, 5 Peters, 1, decided in 1831, the court say:

The Cherokees are a State. They have been uniformly treated as a State since the settlement of the country. The *numerous treaties* made with them by the United States recognize them as a people capable of maintaining the relations of peace and war, of

being responsible in their political character for any violation of their engagements or for any aggression committed on the citizens of the United States by any individual of their number. Laws have been enacted in the spirit of these treaties. *The acts of our Government plainly recognize the Cherokee Nation as a State,* and the courts are bound by those acts.

Treaties have been made with the Cherokees on November 28, 1785, October 2, 1790, July 22, 1791, November 17, 1792, October 24, 1804, October 25, 1805, October 27, 1805, January 7, 1806, July 8, 1807, September 11, 1807, March 22, 1816, July 8, 1817, September 27, 1819, May 6, 1828, February 14, 1833, December 29, 1835, September 19, 1846, August 11, 1866, June 10, 1868; and there are doubtless others which I have not cited. These with the Cherokees alone. There are innumerable treaties with other tribes, involving *the conveyance of land* and all the important and intricate questions of title, possession, and government which have arisen in the intercourse of the tribes with the people and Government of the United States.

To deny the power of the Government, and treat with the Indian tribes, and reciprocally to grant and receive conveyances of title, would be to unsettle the titles of whole provinces and states. If the Cherokee title be not valid, the same reasoning would invalidate the title of millions of acres in sections of the country now densely populated, and covered with towns and cities, and would be in the face of the whole current of judicial decisions.

In "Cherokee Nation *vs.* Georgia," before cited, it is expressly held that—

> The Indians are acknowledged to have an unquestionable and, heretofore, an unquestioned right to the lands they occupy, until that right shall be extinguished by a voluntary cession to our Government.

In the case of the Kansas Indians, (5 Wallace, 737,) it is held that "rules of interpretation favorable to the Indian tribes are to be adopted in construing our treaties with them."

In the same case, speaking of the Shawnees who *ceded their very valuable lands in Ohio to the United States* by the treaty of 1825, (7 Stat. L., 284,) and removed from them to the Shawnee reservation in Kansas, the court says:

> The well-defined policy of the Government demanded the removal of the Indians from organized States, and it was supposed at the time the country selected for them was so remote as never to be needed for settlement.

The court enforces the covenants of this treaty, and (p. 757) says:

> Their situation can only be changed by *treaty stipulation,* or a voluntary abandonment of their tribal organization. As long as the United States recognize their natural character they are under the protection of treaties and the laws of Congress.

A case not yet reported, but an abstract of which has been furnished, has been recently decided in Kansas, arising under the Kickapoo treaty made in 1862. This is a *small and insignificant band* of Indians.

The court says:

> It may seem to border very closely upon the ludicrous, if not the ridiculous, to see the Government of the United States gravely making a treaty with a few half-naked, half-starved savages, as though these savages were a great nation, and then have it claimed that the treaty thus made is a part of the supreme law of the land, paramount to any act of Congress and to any constitution or law of any of the States, and *yet no one at this day will question the power of the Government or validity of the treaty.*

But if it can be supposed that the action of Congress was necessary to the validity of the treaty, there is superabundant evidence of its legislative recognition. By the act of March 3, 1835, money was appropriated to defray the expenses which had been or might be incurred in any negotiations with the Cherokees. The treaty of 1835 was recog-

nized by Congress in 1836 by the act which appropriated $4,500,000—deducting $500,000 for the "neutral lands"—to carry out the treaty.

In 1845 appropriations were made to carry into effect the provisions of the treaty.

In 1845 appropriations were made of money to pay for valuations ascertained and reported by Upton and Sumney and other official assessors, as ordered by the commissioners under the treaty of 1835, (Stat. L., 673.)

In 1856 (Stat. L., 80) an act was passed appropriating $5,724 35 for payment of reservations, preëmptions, and rents, under the treaty of 1835.

From the making of the treaty down to the time of the breaking out of the civil war the Government maintained troops upon the land for the express and avowed purpose of fulfilling the treaty obligations of the United States to keep "settlers" off the land; and in almost every Congress acts have been passed to provide for expenses incurred in fulfilling the obligations of the treaty. No allegation is made that the Cherokees have not fulfilled their part of the contract.

Your committee believes that there is no sound distinction can be taken between the right of the Government to conclude treaties with Indian tribes, touching questions of internal policy and government, that does not equally include the right, both to receive and to convey parts of the public domain. It is difficult to see why, if the tribes ard nationalities at all, and if they are treaty powers, having rights ane possessions, which it is important the nation should possess, why other rights and other possessions, which the Government may advantageously exchange or sell, may not be the subject of reciprocal exchange or sale. No such distinction has yet been recognized by the courts, nor does any good reason appear to your committee why any should made.

But assuming for the argument that the Cherokee title, and those derived under it, are all void and of no effect, and that the lands are "public lands" of the United States, and subject to preëmption settlement, it would be equally unavailing to the intruding settlers.

Under the act of July 15, 1866, (p. 236,) every odd section for ten miles on each side of the railroad *would have become the property of the railroad company.*

The act provides, "that in case it shall appear that the United States, when the line of the road is definitely located, have sold any section or any part thereof granted under this act, or that the *preëmption or homestead settlement* has attached to the same, then it shall be the duty of the Secretary of the Interior to cause to be selected, for the purpose of filling up the grant from the public lands of the United States nearest to the sections granted, so much land as shall be equal to the amount of such lands so sold, reserved, or otherwise appropriated."

The road runs as near as may be through the center of the "neutral lands," which is only twenty-five miles wide. If the alternate sections along the line of the road were disposed of the Government would be bound to make up the quantity granted to the company out of the lands nearest to the road. North of the neutral lands there are no Government lands remaining; and the nearest sections of the neutral lands would be necessary to fill the grant. *All the sections* not confined to odd or even sections would be subject to the grant and pass by the act. It would follow that, if the Cherokee title be void, and the lands are Government lands, that the whole, or nearly so, of the "neutral lands" would pass to the railroad company, under the terms of the act granting it lands to aid in constructing the road.

Your committee, therefore, without further elaboration of the argument, conclude:

1. That the title to that portion of the "neutral lands" conveyed by the United States, by the several patents hereinbefore referred to under the contract with James F. Joy, is valid and indefeasible.

2. That the "settlers" who entered upon the neutral lands after the ratification of the treaty of 1866 are trespassers, who have no title which they can maintain against the patents issued pursuant to the contract with said James F. Foy.

All of which is respectfully submitted.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 6.

ENTRIES UNDER HOMESTEAD LAW.

[To accompany bill H. R. No. 2702.]

JANUARY 11, 1871.—Ordered to be printed.

Mr. JULIAN, from the Committee on Public Lands, made the following

REPORT.

The Committee on the Public Lands, to whom was referred the resolution offered by Mr. Ferry, directing said committee to inquire into the expediency of allowing every honorably discharged soldier who served ninety days in the late war for the Union to select one hundred and sixty acres of the public lands, and to receive a patent therefor at the end of five years without requiring an occupancy of the same, have had the subject under consideration, and now submit the following report:

That it is the duty of the Government to make its lands as productive as practicable, by devoting them to actual settlement and tillage, is a proposition which needs no argument. The humanity of this policy, in supplying homes for the greatest number of those who need them, is equally manifest. The Government is false to its trust, and makes itself the enemy of the people, when it sanctions or permits the monopoly of great bodies of the public domain, which its own landless citizens need for homesteads, and are anxious to make tributary to the public wealth. In the light of these obvious considerations, the proposition before the committee may readily be judged.

The history of military land bounties is instructive. More than seventy-three millions of acres in all have been appropriated for military and naval purposes, the effect of which has been far more ruinous to the country than beneficial to the soldier and seaman. The warrants issued for the lands granted were to be located only by the soldier. It was soon provided, however, that he might locate them by an agent, and, finally, they were made assignable. The Commissioner of the General Land Office says, that of the Mexican war bounty land warrants, the records of his office show that not one in five hundred of those issued and placed in the hands of the soldiers, or their heirs, has been located by them or for their use; and he estimates that not to exceed ten per cent. of them have been used by preëmptors, as assignees in payment for actual settlement, the remainder having gone into the clutches of the speculator. While the soldier was cheated out of his warrant, or sold it at a very low rate, the public domain, which should have been free to him and to all other poor men, has been absorbed by monopolists, who have fixed upon it such tariff as they could exact from those in search of homes. In none of our legislation on the subject of military bounties has there been any precaution taken against the monopoly of the soil, or in favor of the rights of settlers; and while the soldier has received little or no

benefit, the settlement and development of the country have been greatly retarded.

Is the proposition before the committee less objectionable than the legislation to which we have referred? The official estimate of the number of soldiers to be provided for, saying nothing of the heirs of those who have died, is two million two hundred and forty-five thousand six hundred and fifty-nine. Multiplying this by one hundred and sixty will give, as the aggregate of lands called for, three hundred and sixty-nine million three hundred and five thousand four hundred and forty acres. As the land is to be had simply for the asking, we may fairly suppose that all, or nearly all, would make their selections, so far as the extent and situation of the public domain would permit, and receive their patents at the end of five years. If one-half only should avail themselves of the privilege, it would require every acre of land which the Government could survey within the next twenty-nine years, at the rate our surveys are now progressing, thus fatally blocking up the grand march of civilization and settlement now in progress, and consigning the public domain to solitude, while the soldier, on receiving his patent, would be under no obligation to settle on his land, and might sell it to the sharks who would be lying in wait to take advantage of his poverty in driving a bargain. The sale of the public lands would cease, because the lands subject to sale would be absorbed. The homestead law would be nullified, under which, during the past year, three million six hundred and ninety-eight thousand nine hundred and ten acres were disposed of, thus adding twenty-three thousand one hundred and eighteen farms, of one hundred and sixty acres each, to the column of productive wealth. The preëmption law would become a dead letter, through the pressure for surveyed lands, and the check which would be given to railway extension, foreign emigration, and the progress of settlement in the most desirable portions of our frontiers. In a word, our land policy, which is working out such grand results, would be radically revolutionized in the interest of monopolists, who would lavish curses innumerable upon coming generations. In his late message the President well says, that "The remarkable growth and prosperity of our new States and Territories attest the wisdom of the legislation which invites the tiller of the soil to secure a permanent home on terms within the reach of all. The pioneer who incurs the dangers and privations of a frontier life, and thus aids in laying the foundation of new commonwealths, renders a signal service to his country, and is entitled to its special favor and protection. These laws secure that object, and largely promote the general welfare. They should, therefore, be cherished as a permanent feature of our land system." Fully agreeing with these views, we must decidedly protest against the policy proposed. The principle of settlement should be adhered to as a vital one. The measure before us is wanting also in equity, in giving to all soldiers, irrespective of the service rendered, the same bounty. This equity could only be properly provided for by a bounty in money, graded in amount according to the time of service, as prescribed in the bill which has repeatedly passed the House of Representatives, and as repeatedly been ignored in the Senate. We are in favor of such equalization of bounties. If land is what the soldier wants, he can have it now, on the easy terms of the homestead law. The committee, however, would gladly favor him by a just bounty in land in any manner that shall not surrender the wholesome policy of the Government in requiring the actual occupancy and tillage of the land appropriated. They are willing, therefore, to shorten the time of occupancy, and to discriminate in

his favor according to the term of his service, by allowing that term, whether long or short, to be counted as a part of the five years' settlement now prescribed by law. This advantage to the soldier over the civilian, while it would not abandon the existing policy of our laws, we believe would be just and well deserved; and the committee, therefore, respectfully report the following bill, being substitute for H. R. No. 2681, and for the various propositions which have been referred to them on the subject.

O

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 7.

CHARLES POMEROY.

[To accompany bill H. R., No. 2706.]

JANUARY 13, 1871.—Ordered to be printed.

Mr. W. B. WASHBURN, from the Committee of Claims, made the following

REPORT.

The Committee of Claims, to whom was referred the memorial of Hon. Charles Pomeroy, praying for the passage of a special act for the adjustment of his accounts with the Government, as late receiver of public moneys at Fort Dodge, in the State of Iowa, having considered the same, make the following report:

It appears, from a direct communication from the First Comptroller of the Treasury, dated December 15, 1870, that on a settlement of the accounts of the claimant for the 4th quarter of 1869, a balance was found due the United States of seven hundred and fifty-one dollars and ninety-three cents; and that by a further settlement made at the General Land Office, under date of 30th April, 1870, the claimant was credited with a warrant for eight hundred and eighty-six dollars and sixty-eight cents, thus overpaying his indebtedness in the sum of *one hundred and thirty-four dollars and seventy-five cents.*

There is no provision of law by which this balance, overpaid by the claimant and covered into the Treasury after his official term had expired and his accounts were closed, could be repaid, and without a special act the same must remain to the credit of the claimant, but locked up in the Treasury.

To correct this error, and to properly adjust the claimant's accounts, the committee report the accompanying bill, and recommend its passage.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 8.

HENRY A. MESSENGER.

[To accompany bill H. R. No. 2493.]

JANUARY 13, 1871.—Ordered to be printed.

Mr. W. B. WASHBURN, from the Committee of Claims, made the following

REPORT.

The Committee of Claims, to whom was referred the bill (H. R. No. 2493) for the relief of Henry A. Messenger, of Shelbina, Missouri, having considered the same, make the following report:

The bill provides that the Secretary of the Treasury shall issue to the claimant a duplicate of coupon bond No. 14033 for $1,000, payable in 1881, issued under the act of March 3, 1863, upon satisfactory proof being made to the Secretary of the destruction of the original bond, and upon satisfactory bond with sufficient surety being given by the claimant, indemnifying the United States against any loss resulting therefrom.

The claimant has submitted evidence of the purchase, ownership, and destruction of said bond by fire, through an accident to which any person might be subject. Additional evidence is submitted through his Representative in Congress, that the claimant is "of the highest respectability," and that "full reliance can be placed on his statements."

With the bill thus guarded by provisions which challenge the scrutiny of the officers of the Treasury to examine into all the facts of the loss and destruction of the bond, and to take ample security to indemnify the Government from loss, the committee are of opinion that it is but just and safe to provide the claimant with the relief, and therefore recommend the passage of the bill.

O

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 9.

JOHN C. McQUISTON AND JEREMIAH D. SKEEN.

[To accompany bill H. R. No. 2707.]

JANUARY 13, 1871.—Ordered to be printed.

Mr. HOLMES, from the Committee of Claims, made the following

REPORT.

The Committee of Claims, to whom was referred House bill (No. 235,) for the relief of John C. McQuiston and Jeremiah D. Skeen, of Indiana, beg leave to report:

That it appears from the evidence before the committee that John C. McQuiston was the provost marshal of the fourth district of Indiana in the years 1863 and 1864, and that Jeremiah D. Skeen was his deputy; that under an order from General Baker, provost marshal of the State of Indiana, and of General Wilcox, commanding in that department, Jeremiah D. Skeen, as the deputy provost marshal, on the 30th day of July, 1863, arrested one Jerome Huntington for attempting to appropriate to his own use a horse belonging to the United States, left in the county of Ripley, Indiana, by the forces of General Hobson, when in pursuit of Morgan's forces through the State of Indiana. Huntington sued McQuiston and Skeen in the Ripley circuit court for false imprisonment, and on the request of General Baker, the War Department assumed the defense of the action, and on application being made by the attorney defending the case to transfer the case to the circuit court of the United States, and overruled, the attorney, relying on the sufficiency of the application for the transfer of the case, declined to make any further defense, and a judgment was rendered against McQuiston and Skeen for $2,000, and they have been compelled to satisfy the judgment.

It is very clear that the acts on which this judgment was founded were performed under the orders of General Baker and General Wilcox, which McQuiston and Skeen were bound to obey; that the Government assumed the defense of the case, and that McQuiston and Skeen ought to be indemnified for the loss sustained.

The committee, therefore, recommend the passage of the accompanying bill.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 10.

HENRY CLAY WILLIAMS.

JANUARY 13, 1871.—Ordered to be printed.

Mr. A. COBB, from the Committee of Claims, made the following

REPORT.

[To accompany bill H. R. No. 2666.]

The Committee of Claims, to whom was referred the bill (H. R. No. 2666) for the relief of Henry Clay Williams, late receiver of public moneys at Eau Claire, Wisconsin, having considered the same, report:

This bill appropriates the sum of three hundred and twenty-eight dollars and ninety-nine cents, an amount due the claimant as receiver, being the balance of a deposit made by him to the credit of the United States Treasurer, and covered into the Treasury over and above the amount which was due from, and which should have been paid by, said receiver to the United States. This was an error on the part of the receiver and remains to his credit in the Treasury, as appears from a letter from the First Comptroller of the Treasury, dated 4th January, 1871; but having been covered into the Treasury, the same cannot now be restored without the authority of a special act of Congress.

The committee therefore report back the bill and recommend its passage.

O

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 11.

WILLIAM M. HENRY.

[To accompany bill H. R. No. 2711.]

JANUARY 13, 1871.—Ordered to be printed.

Mr. J. H. MOORE, from the Committee of Claims, made the following

REPORT.

The Committee of Claims, to whom were referred the memorial and evidence of William M. Henry, of Hawkins County, Tennessee, late second lieutenant of Company E, First regiment of Tennessee volunteer cavalry, having considered the same, make the following report:

The claimant enlisted as a private soldier of his company and regiment on the 2d March, 1862, and was made first sergeant on the 2d June following, doing duty as such until the 6th August, 1863, when he claims to have been promoted to second lieutenant, and to have performed military service without being mustered in as an officer to 11th April, 1865, when he was regularly mustered out and paid as a private soldier.

The claimant shows that he made application and efforts on two occasions to be mustered in as an officer, but that it was delayed and postponed, through no fault of his, until his duties precluded him from so doing, and now asks, in view of his actual services, the passage of a special act providing for his pay as an officer.

The committee find, on thorough examination of the circumstances of this claim, that Lieutenant Henry performed military services as stated, that he was never mustered as an officer, probably through his own ignorance of his rights and the gross neglect of other officers of their duties, and that he was commissioned by the governor of Tennessee on the 13th of August, 1864, a year after he claims to have been promoted. This is the date at which he should have been mustered. He could only become an officer by virtue of the commission, and it was not competent to antedate the legal effect of either the commission or muster, so as to change the regulations and expenditures of the volunteer forces of the Army. This view is in conformity to the spirit of the general act of July 11, 1870, "for the relief of certain officers of the Army," and which provides that "the person to whom the commission shall have issued shall be considered as commissioned to the grade named therein, from the date when the commission was issued by competent authority, and entitled to all pay and emoluments as if actually mustered at that date."

While it does not appear that the claimant was at any time a prisoner in the hands of the enemy, or in hospital from wounds received in battle, or that he performed any extraordinary act of bravery, the committee can only recommend that he be paid as an officer from the date of his commission, the date at which the State authorities of Tennessee thought proper to promote him, deducting therefrom his pay as a soldier, and for that purpose report the accompanying bill, and recommend its passage.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 12.

CHEROKEE NEUTRAL LANDS IN KANSAS.

[To accompany bill H. R. No. 1074.]

JANUARY 13, 1871.—Ordered to be printed and recommitted to the Committee on Indian Affairs.

Mr. SHANKS, from the minority of the Committee on Indian Affairs, submitted the following report:

MINORITY REPORT

OF

The Committee on Indian Affairs, to whom was referred bill (H. R. No. 1074) "*to dispose of the Cherokee neutral lands in Kansas to actual settlers only,*" *submitted the following report:*

That what is known as the "Cherokee Neutral Lands" is a tract of near 800,000 acres, (the exact area of the Cherokee neutral lands is $799{,}615\frac{18}{100}$ acres,) situated in the southeast corner of the State of Kansas, lying in an oblong shape, bordering on the State of Missouri, and near to the Indian Territory, extending in length north and south fifty miles, and in width twenty-five miles. It is a desirable tract, having a good soil and being well watered. It was originally occupied by the Osage Indians, as was all that country lying west of the Mississippi, north of the Red, and south of the Kansas Rivers, and extending westwardly.

This tract of 800,000 acres was purchased by the United States from the Osages by treaty of June 2, 1825. It was designated as a neutral ground, on which neither whites nor Indians should settle or remain. It was intended as a barrier between the white people of the State of Missouri on the one hand and the Osage Indians on the other, and took its name, "Neutral Lands," from the character of this guarantee. Its proper cognomen was Osage Neutral Lands, but, having been, under the treaty of 1835, included in the patent of 1838 to the Cherokees, with the land they now hold in the Indian Territory, it is now called the "Cherokee Neutral Lands," and is so denominated in this bill.

This tract of 800,000 acres forms two counties and part of a third county in the State of Kansas, and has for a number of years been settled by white people. The first white settlement was made on it about the year 1857.

As early as November 29, 1859, the attention of the Interior Department was directed to these settlements. The records of the office of the Commissioner of Indian Affairs show that there were one thousand and thirty-one families settled on this land on the 11th of August, 1866, and who were recognized by the Government as actual settlers. Many have made settlements there since.

Your committee believe, from the best information they have, that there are now three thousand five hundred families, or nearly eighteen thousand persons, settled there, improving the land and desiring to make it their permanent home.

These settlers claim their right to take a title to their several homes on this land under the preëmption laws of the United States. They

are, however, prevented from so doing by an illegal and unjust transfer of this entire tract of 800,000 acres, (excepting that occupied by the above-named one thousand and thirty-one families of white settlers,) recognized as such on August 11, 1866, to one James F. Joy, by O. H. Browning, then Secretary of the Interior.

Your committee cannot characterize this transaction, by which these lands were nominally sold to this man Joy, by any term less emphatic than "illegal and unjustifiable." This transaction will be fully discussed in the subsequent pages of this report, and its duplex character brought to the attention of the House. Your committee now call particular attention to the following history of the title to this land, and ask a careful consideration of this entire report by each member of the House.

This land is a part of what is known as the Louisiana purchase, which was ceded to the United States Government by France, by treaty of April 30, 1803, the first article of which reads as follows:

ARTICLE 1. Whereas by the third article of the treaty concluded at St. Ildefonso, the 9th Vendemiaire, an. 9, (1st October, 1800,) between the First Consul of the French Republic and his Catholic Majesty, it was agreed as follows: "His Catholic Majesty promises and engages, on his part, to cede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein relative to his Royal Highness the Duke of Parma, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and the other States; and whereas, in pursuance of the treaty, and particularly of the third article, the French Republic has an incontrovertible title to the domain and to the possession of the territory, the First Consul of the French Republic, desiring to give to the United States a strong proof of his friendship, doth hereby cede to the said United States, in the name of the French Republic, forever, and in full sovereignty, the said territory, with all its rights and appurtenances, as fully, and in the same manner, as they have been acquired by the French Republic in virtue of the above-mentioned treaty, concluded with his Catholic Majesty."

Of which possession was taken by the President, by authority of special act of Congress of October 31, 1803, (U. S. Statutes, vol. 2, p. 245;) it being the custom to await action touching new territory purchased by the Government until Congress directed by law that possession should be taken, thus showing its assent to the terms of the treaty.

Such was the title received by the United States from France to the "Louisiana Territory," which Territory comprised the present States of Minnesota, Iowa, Nebraska, Kansas, Missouri, Arkansas, and Louisiana, with the present Territories of Dakota, Indian Territory, &c.

Our title to all lands in these States and Territories has, for its foundation, this cession by France to the United States, and on which the Indians have only been recognized as holding title by occupancy, subject to removal at the pleasure of the Government. The United States found a large area of this Louisiana purchase occupied by the Osage Indians, a part of which was the tract of land now under consideration.

The Indian right of occupancy to this tract of near 800,000 acres, and other lands, as above stated, was extinguished by treaty with the Osage Indians, of June 2, 1825. (See treaty, art. 1, U. S. Statutes, vol. 7, p. 240.)

On the 28th day of May, 1830, Congress passed "An act to provide for an *exchange* of lands with the Indians residing in any of the States or Territories, and for their removal west of the river Mississippi."

SECTION 1. *Be it enacted, &c.*, That it shall and may be lawful for the President of the United States to cause as much of any territory belonging to the United States west of the river Mississippi, not included in any State or organized Territory, and to which the Indian title has been extinguished, as he may judge necessary, to be divided into a suitable number of districts, for the reception of such tribes or nations of Indians as may choose to exchange the lands where they now reside, and remove there;

and to cause each of said districts to be so described by natural or artificial marks as to be easily distinguished from every other.

Section 3 is as follows:

And be it further enacted, That in the making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guarantee to them, and their heirs or successors, the country so exchanged with them; and if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided always*, That such lands shall revert to the United States if the Indians become extinct or abandon the same.

By the treaty with the Cherokees west of the Mississippi, of May 6, 1828, and the supplemental treaty of February 14, 1833, correcting the boundaries of the grant of 1828, (see U. S. Statutes, vol. 7, pp. 311 and 414,) the United States guaranteed and secured, to be conveyed by patent to the Cherokee Nation of Indians, 7,000,000 acres of land now mainly included in the Indian Territory; both of which treaties, however, were made without authority of law, but which were afterward, by treaty of December 29, 1835, corrected and adapted to the provisions of the law of Congress of May 28, 1830, above quoted, "To provide for an *exchange* of lands with the Indians residing in any of the States or Territories, and for their removal west of the river Mississippi." By the terms and provisions of the treaty of the 29th day of December, 1835, concluded at New Echota, in the State of Georgia, between the United States and the chiefs and headmen and people of the Cherokee tribe of Indians, it is stipulated that the grant of 7,000,000 acres of land made to the Cherokee Nation, by treaty of May 6, 1828, and of February 14, 1833, shall conform to the very restrictive limitations of that statute, to which this treaty subjects and conforms these two former treaties, and, in addition, guarantees, (see article 2:)

A perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said seven million acres, as far west as the sovereignty of the United States and their right of soil extends. * * And whereas it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation on their removal west of the Mississippi, the United States, in consideration of the sum of five hundred thousand dollars, therefore, hereby covenant and agree to convey to the said Indians and their descendants, by patent in fee-simple, the following additional tract of land situated between the west line of the State of Missouri and the Osage reservation, beginning at the southeast corner of the same, and runs north along the east line of the Osage lands, fifty miles, to the northeast corner thereof; and thence east to the west line of the State of Missouri; thence, with said line, south fifty miles; thence west to the place of beginning—estimated to contain eight hundred thousand acres of land.

Article 3 reads:

The United States also agree that the lands above ceded by the treaty of February 14, 1833, including the outlet and those ceded by this treaty, shall all be *included in one patent executed to the Cherokee Nation of Indians by the President of the United States, according to the provisions of the act of May 28*, 1830. (U. S. Statutes, vol. 7, p. 478.)

On the 31st day of December, 1838, a patent was issued to the Cherokees under the above treaty and law, the granting clause of which is in the following words:

Therefore, in execution of the agreements and stipulations contained in the said several treaties, the United States have given and granted, and by these presents do give and grant, unto the said Cherokee Nation the two tracts of land so surveyed and hereinbefore described, containing in the whole 13,374,135$\frac{14}{100}$ acres, to have and to hold the same, together with all the rights, privileges, and appurtenances thereunto belonging, to the said Cherokee Nation forever, subject, however, to the right of the United States to permit other tribes of red men to get salt on the salt plain on the Western Prairie, referred to in the second article of the treaty of the twenty-ninth of December, one thousand eight hundred and thirty-five, which salt plain has been ascertained to be within the limits prescribed for the outlet agreed to be granted by said article, and subject

also to all the other rights reserved to the United States in and by the articles hereinbefore recited, to the extent and in the manner in which the said rights are so reserved, and subject also to the condition provided by the act of Congress of the 28th of May, 1830, and which condition is, "that the lands hereby granted shall revert to the United States if the said Cherokees become extinct or abandon the same."

The tract of 800,000 acres, described in article second of the above-cited treaty of December 29, 1835, is the particular land under consideration in this report, and intended to be covered by this bill, and is, for the first time, mentioned in this treaty of 1835.

The Indian title to this land is only that of occupancy. The treaty of May 6, 1828, and supplemental treaty of February 14, 1833, are much broader in their terms to the grant of 7,000,000 acres, and to the outlet, than is this one of December 29, 1835, to this tract. The title which the Cherokee Indians held to their lands in Georgia, which were, under the law of Congress of May 28, 1830, put in force by this treaty of December 29, 1835, *exchanged* for this 7,000,000 acres, and the outlet and this tract, was only a title of occupancy. This was decided by the Supreme Court of the United States in three several cases, Johnson *vs.* McIntosh, (8 Wheaton, pp. 574, 578, 579, 580, 583, 584, 585, 586, 587, and 588,) in the year 1823, when the Cherokee title to lands in Georgia, and the character of the Indian title to lands in the United States, was ably discussed and settled, Chief Justice Marshall rendering the decision; in the cases of Cherokee Nation *vs.* State of Georgia, (5 Peters, p. 48, A. D. 1831,) and Worcester *vs.* State of Georgia, (6 Peters, p. 580, A. D. 1832.)

We may consider the law as definitely settled, that no *tribe* of Indians has held or does hold a title in fee, or absolute title, in any land within the jurisdiction of the United States.

The law of Congress of May 28, 1830, which stands unrepealed, and limits the reversion of all titles to lands ceded to or exchanged with *Indian tribes* to the United States, conditioned upon the abandonment of the land, or the extinction of the Indians, and thus prohibiting the transfer (as that would work an abandonment) by them of their right to any other persons, is in strict accordance with these decisions of the Supreme Court.

The law-making power and the judiciary have both passed upon and settled this question; and when we consider that the treaty of December 29, 1835, by which this tract of eight hundred thousand acres was ceded to the Cherokees, specially provides that "the provisions of the act of May 28, 1830," shall control the cessions made and those confirmed by this treaty, it leaves no room for a doubt that the Cherokee Indians held only a right of occupancy, with reversion to the United States, and without power to sell or authorize the sale to any other person.

The proviso in section 3 of the law of Congress of May 28, 1830, is as follows:

Provided always, That such lands shall revert to the United States if the Indians become extinct or abandon the same.

If by their title the Cherokees were to hold this land until they became "extinct," they could sell the life estate of their tribe, determinable when they became extinct. But the provision is much closer. It is, "or abandon the same." Their disposition of the title abandons the land and works a reversion to the United States; and it makes no difference to whom their right of possession is sought to be conveyed, whether to the United States, which makes perfect its title, or to another, which would simply divest the Indians of their title; for in

either case the abandonment surrenders their title to the Government, and the title becomes absolute and unencumbered in the United States, subject to all the laws of the United States, including the laws of pre-emption.

Your committee are of the opinion that any voluntary disposition of the right of occupancy by the Cherokee Nation of Indians works an abandonment, and, if with an enemy at war with the Government of the United States, a forfeiture of all right to any interest in the land under consideration. Your committee further believe that the title having been merged in or forfeited to the United States, the Executive, with the advice and consent of the Senate, without special power from Congress, cannot by treaty restore that right to the Cherokee Indians, or pass it to any other person; and that any act of the Cherokee Nation of Indians subsequently had with or without conjunction with the treaty-making power of the United States is futile; that there is no power in the Government, aside from Congress, that can dispose of the public lands; and hence the title to these neutral lands is in the Government, for the reason that the Cherokee Nation of Indians voluntarily, by treaty made October 7, 1861, at Talequa, their capital, with the Confederate States of America, represented by Albert Pike, its commissioner, with plenary powers, entered into "an alliance offensive and defensive," by which the Cherokee Nation of Indians acknowledged itself "to be under the protection of the Confederate States of America," then at war with the United States, in which the Cherokee Nation gives its "full, free, and unqualified assent" to the acts of the confederate congress "approved the 24th day of May, 1861, whereby it was declared that all reversionary and other interest, right, title, and proprietorship of the United States in, unto, and over the Indian country in which that of the Cherokee Nation is included, should pass to and vest in the Confederate States," &c. (Section 5, treaty.)

And in the forty-seventh article of the same treaty it is agreed that, if this tract of 800,000 acres should be lost to the Cherokees by the fortunes of war, "the Confederate States of America do assure and guarantee to the Cherokee Nation the payment therefor of the sum of five hundred thousand dollars, with interest thereon, at the rate of five per cent. per annum, from the said 29th day of December, A. D. 1835."

And in the forty-eighth article of the same treaty "the Confederate States do hereby agree to advance to the said Cherokee Nation, immediately after the ratification of this treaty, on account of the said sum to be paid for the said land mentioned in the preceding article, the sum of one hundred and fifty thousand dollars, to be paid to the treasurer of the Cherokee Nation;" and to hold other funds invested for said Cherokees for the same purposes. This was an abandonment of the land, and no act of the President or Senate could restore it to the Cherokee Nation of Indians; and, in fact, they did not attempt to do so in affirmative words.

Your committee further believe that if for any *cause or excuse* the title of occupancy still remained in the Cherokee Nation after their treaty with the Confederate States of America, even in that case the treaty with the United States of August 11, 1866, worked the voluntary surrender to the Government under the proviso of the act of May 28, 1830, and the conformatory provision of the treaty of 1835; and that no assumed conveyance in trust can avail to retain the title or controlling interests in the land in the Indians, as against the claim to perfect title in the United States, and the settlers on these lands who hold

under the several acts of Congress extending the preëmption laws over them.

Your committee are of the opinion that if the preëmption laws of the United States operated to the protection of one thousand and thirty-one families settled on this tract, they must have necessarily extended over the remainder of the tract, and, being an act of Congress, could not be removed by a treaty, which is only an executive contract, having the advice and consent of the Senate.

The *rights* of American citizens, *vested under law*, cannot be *divested* by *executive contract* without their consent. It is at least doubtful whether a treaty could be made under the provisions of our Constitution and become binding as such between the Government and the mere occupants of its soil situated within its territorial limits, and subject to its laws; and most certainly not as against a law of Congress in force, or of rights acquired under such law.

"The Congress shall have the power to dispose of the territory and other property of the United States." Congress "shall consist of a Senate and House of Representatives." Treaties, to give them binding force, can only be made "under the authority of the United States."

The President has power, "by and with the advice and consent of the Senate, to make treaties;" but they only become law when made "under the authority of the United States."

There was no law for this treaty of 1866, or the supplemental treaty of June 10, 1868; and they are not valid only so far as they indicate the intention of the parties to surrender to the Government their occupancy of the land. The power to dispose of the public lands cannot rest in two powers at the same time.

The treaty of December 29, 1835, was made under the authority of the law of May 28, 1830; and, in so far as it conformed to that law, is binding and valid. Neither the treaty made under the law, nor the patent executed in conformity to the treaty, can transcend the terms, scope, and purpose of the law.

Congress alone has power to "dispose of," and no strength is given the treaty-making power, by conjunction with the Indians, to "dispose of the territory or other property of the United States," and thus do, by a joint action between the Executive and an Indian tribe, what the Executive could not, with the advice and consent of the Senate, do without the tribe.

It is a dangerous precedent to set, that the treaty-making power and Indian tribes may dispose of our territories to corporations or to individuals. An exercise of the same power could sell our domain to foreign nations.

To acknowledge the power in the treaty-making power of the Government, without law of Congress, to sell the public domain, would authorize the President, by and with the advice and consent of the Senate, by treaty, to sell Alaska, or any territory we own, to the Indians residing there; and, with or without their conjunction, dispose of the whole territory to an individual or corporation, and the people effectually denied the right to be heard through their Representatives.

By treaty of August 11, 1866, the Cherokee Indians undertook to cede these neutral lands back again to the United States. Article 1 of this treaty declares the treaty between the Cherokee Indians and the Confederate States of October 7, 1861, "to be void;" but the treaty contains no express stipulation that the forfeited right to these lands should be restored, and it was not.

Article 17 of that treaty is as follows, (U. S. Statutes, vol. 14, p. 804:)

The Cherokee Nation hereby cedes, in trust, to the United States the tract of land in the State of Kansas which was sold to the Cherokees by the United States under the provisions of the second article of the treaty of 1835, and also that strip of land ceded to the nation by the fourth article of said treaty which is included in the State of Kansas; and the Cherokees consent that said lands may be included in the limits and jurisdiction of the said State.

The lands herein ceded shall be surveyed as the public lands of the United States are surveyed, under the direction of the Commissioner of the General Land Office, and shall be appraised by two disinterested persons, one to be designated by the Cherokee national council, and one by the Secretary of the Interior, and, in case of a disagreement, by a third person, to be mutually selected by the aforesaid appraisers; the appraisement to be not less than an average of one dollar and a quarter per acre, exclusive of improvements.

And the Secretary of the Interior shall, from time to time, as such surveys and appraisements are approved by him, after due advertisements for sealed bids, sell such lands to the highest bidders, for cash, in parcels not exceeding one hundred and sixty acres, and at not less than the appraised value: *Provided*, That whenever there are improvements of the value of fifty dollars made on the lands, not being mineral, and owned and personally occupied by any person for agricultural purposes at the date of the signing hereof, such person so owning and in person residing on such improvements shall, after due proof, made under such regulations as the Secretary of the Interior may prescribe, be entitled to buy, at the appraised value, the smallest quantity of land in legal subdivisions, which will include his improvements, not exceeding in the aggregate one hundred and sixty acres; the expenses of survey and appraisement to be paid by the Secretary out of the proceeds of sale of said land: *Provided*, That nothing in this article shall prevent the Secretary of the Interior from selling the whole of said neutral lands in a body to any responsible party, for cash, for a sum not less than eight hundred thousand dollars.

The above was amended as follows:

Amendment 2. Strike out the last proviso in article 17, and insert in lieu thereof the following: "*Provided*, That nothing in this article shall prevent the Secretary of the Interior from selling the whole of said lands not occupied by actual settlers at the date of the ratification of this treaty, not exceeding one hundred and sixty acres to each person entitled to preëmption under the preëmption laws of the United States, in a body, to any responsible party, for cash, for a sum not less than one dollar per acre.

Your committee would submit that the Secretary of the Interior is an officer of the United States; that his duties are defined and imposed upon him by acts of Congress; and that the treaty-making power is not competent to add to or to take from his duties; that it was not possible for the treaty-making power to confer on him the duplex character of an officer "for and in behalf of the United States" and of "trustee for the said Cherokee Nation of Indians;" that if a trustee was to be appointed to dispose of these lands, such an appointment could only be made by Congress, as the only possible source of the power to do the thing which the trustee purports to have been appointed to do.

Assuming to act under this treaty of August 11, 1866, but in violation of one of its important provisions, which was to sell "in a body" "the whole of said lands not occupied by actual settlers," without "due notice" having been previously given, a contract was made and entered into, on the 30th day of August, 1866, by James Harlan, then Secretary of the Interior, on the one part, and H. Chamberlain, director and attorney-in-fact for the American Emigrant Company, on the other part, (a corporation said to have been chartered and existing under the laws of the State of Connecticut,) "for the sale of the so-called 'Cherokee Neutral Lands,' in the State of Kansas, containing eight hundred thousand acres, more or less." These were only *a part of the lands ceded* by said treaty of August 30, 1866.

James Harlan passed out of office within forty-eight hours after this attempted sale, a fact worth remembering in this investigation. On the opinion and advice of Attorney General Stanbery, of October 4, 1866, Harlan's attempted sale of these lands to the American Emigrant Com-

pany was, on the 20th of October, 1866, held to be null and void, and Mr. Chamberlain duly notified thereof by Harlan's successor in office, Orville H. Browning; and on the 9th day of October, 1867, Secretary Browning, without official notice or authority of law, entered into a contract for the sale of these same lands to James F. Joy, of Detroit, Michigan. There was no official notice given of an intention to make a sale of these lands by Secretary Browning.

These are most remarkable transactions. They were followed to their consummation with whatever lasting effect the official relation of their actors to the Government at the time of their commission gave them. It becomes our duty to carefully and faithfully examine and present the facts to Congress for its consideration and correction.

The attempt by treaty of 1866 to restore the forfeited rights of the Cherokees to the neutral lands was as unjust in pupose as it was impossible by the parties that undertook it, and proved its fallacy in its total want of a positive provision in the treaty to that effect; the parties to that treaty seem to have avoided raising the question of power by simply assuming what they did not declare in words. The novel and ill-advised provision in the seventeenth article of the treaty of 1866, authorizing the sale of "the whole of said lands in a body to any responsible party," which was this neutral land, 779,615$\frac{18}{100}$ acres, and the Cherokee strip of ——— acres, making ——— acres, carries on its face a lack of official good faith that becomes evident and ripens into positive proof when we learn that these lands were then, and had been for years, diligently sought, and even claimed, by the people for actual settlements. Thousands of settlers were then on and claimed them under the preëmption laws of Congress. It was well known to the Interior Department that this was one of the sources of trouble to the perpetrators of this fraud. This provision in the treaty of 1866 was evidently made in the interest of speculation, and to defeat the settlement of these valuable lands by the people under the preëmption laws. It is one of a series of transactions of this kind running from May 30, 1860, to this of August 11, 1866, and marks that period as an exception in the management of Indian affairs, and in which the same operators are found with singular uniformity. This treaty was proclaimed August 11, 1866, and Mr. Harlan sold this tract, near 800,000 acres, on the 30th of the same month to the Emigrant Company, and surrendered his office on the 1st of September, two days after. The sale was made within nineteen days after the confirmation of the treaty, and without public notice, while the treaty required "due advertisement" to be given by the Secretary of the Interior, which Harlan then was. Four other treaties, equally bad in their character, have been made since, but the present administration does not ask their confirmation, and has prevented it. Under the provisions of that treaty the lands should have been sold, after due advertisement for sealed bids, at not less than $1 per acre of the entire land ceded, or an average of $1 25, if sold in parcels. The sale of part of the lands ceded was an error, and violates the treaty conditions, because the minimum price was put at $1 per acre if sold in a body, or not less than an average of $1 25 if sold in parcels, for the reason that a portion of the Cherokee strip runs into the sand plains, and is comparatively valueless, and that fact entered into the considerations and stipulations of the treaty.

Mr. Harlan sold the neutral lands to the Emigrant Company on a long credit, while the treaty provided a sale for cash. And for this informality the Attorney General, on application of Harlan's successor for his opinion, decided the contract to be null and void, and the Department, in conformity with his instructions, declined to carry out the contract made

by Harlan, and so advised the company's agent. Evidently, for these among other reasons, the sale to the Emigrant Company was void and of no effect or validity from the beginning.

It is difficult to see the virtues of this transaction. The sale of August 30, 1866, by Harlan, to the Emigrant Company was, by Attorney General Stanbery, on October 4, 1866, held to be null and void, for non-compliance with the provision of the treaty of August 11, 1866, under which it was professedly made, in that it was a sale on long credit, while the treaty provided only for sales for cash.

Secretary Browning, who submitted this question, accepted the Attorney General's opinion and acted under its advice, and in his official capacity, on the 20th day of August, 1866, declared Harlan's sale to the Emigrant Company to be null and void, and for the time at least saved near 800,000 acres of public land, including many homes of laboring men, from private speculation.

There are many other as cogent reasons why the sale was void, which were not submitted to the Attorney General, and hence never passed upon.

How long Secretary Browning retained this opinion does not appear of record, and cannot be deduced from the facts; but on the 9th day of October 1867, something over eleven months after he declared the sale by Harland void, he undertook to make one of the same lands to James F. Joy, of Detroit, Michigan. But he, too, violated the provisions of the treaty of 1866. He gave no official or "due advertisement" of an intention to sell. He did not sell "all of said lands in a body," as the Cherokee strip was not included. He did not sell under "sealed bids," as the treaty contemplates. The best explanation of what he did do may be ascertained from the official statement that he himself made to the House, (see Ex. Doc. No. 85, second session fortieth Congress,) as follows:

> I suggested and urged, at the last session of Congress, that the United States should become the purchaser at one dollar per acre, and issue bonds in payment thereof. Such a proposition was, I believe, submitted to Congress, but not accepted.
>
> After the adjournment of Congress I authorized an unofficial statement to be made in newspapers that the proposals for the purchase of said lands in a body would be received at the Department until the 1st of October.
>
> Early in October Mr. James F. Foy, of Detroit, Michigan, proposed to take the lands in a body at $1 per acre, and pay the cash for them.
>
> No other offer was made. I accepted Mr. Joy's, and concluded a contract with him, from which all lands occupied by actual settlers at the date of the ratification of the treaty were excluded. A copy of the contract is herewith furnished.

There were no bids under this "unofficial statement in newspapers." But he further says that "early in October, J. F. Joy, of Detroit, Michigan, proposed to take the lands at $1 per acre and pay the cash for them." There was no attempt by either Harlan or Browning to sell in parcels to settlers, or purchase under sealed bids, as provided by the treaty, or official notice for competition in bids for the whole in a body.

Mr. Browning in this letter says that he suggested and urged at the last session of Congress that the United States should become the purchaser, and to issue bonds in payment thereof. Now, if there was any virtue in the treaty, it demanded cash for the lands. And Secretary Browning did not officially recommend to Congress such purchase, as stated in his letter. The United States was then a trustee, and the trust with Browning as a public officer; and the first condition of the trust was to sell the land in parcels, after survey, appraisement, and due advertisement; and it was so notorious that the lands were desired by the people that it became necessary to acknowledge the actual settlement on the lands of one thousand and thirty-one families. If Secretary

Browning had desired to do so, the door was open to sell these lands to the people, and not encumber the Government with the "issue of its bonds," as the people were anxious to pay the cash for the land.

It is difficult to see with what propriety the United States can first voluntarily become a trustee by the terms of a treaty for the sale of real estate for the Cherokees, and then become the purchaser of the lands held by it in trust. There is no court responsible for its decisions that would allow a trustee to become a purchaser of the trust estate; and if the treaty of 1866, by which this trust was attempted to be created, was good, the advice which Mr. Browning *says* he gave the Government, to purchase these *trust* lands by the issue of its bonds, was certainly bad.

The following is the contract between Secretary Browning and J. F. Joy:

This agreement, made and entered into this ninth day of October, in the year of our Lord one thousand eight hundred and sixty-seven, by and between Orville H. Browning, Secretary of the Interior, and James F. Joy, of the city of Detroit, in the State of Michigan, witnesseth: Whereas, by the seventeenth article of a treaty between the United States of America and the Cherokee Nation of Indians, made and concluded on the nineteenth day of July, A. D. 1866, and proclaimed on the eleventh day of August in said year, and the two several provisos to the said section annexed, there were ceded in trust to the United States certain parcels of land therein mentioned, with power to the Secretary of the Interior to sell all of the said ceded lands, with the exception of such parts thereof as are embraced within the tenor and effect of the said two provisos to the seventeenth article of said treaty, for cash, for the sum of not less than one dollar per acre; and whereas the said James F. Joy has proposed to become the purchaser of said lands, and has for that purpose offered to pay therefor the sum of one dollar per acre in cash, which is, in the opinion of the Secretary of the Interior, an eligible and satisfactory price for the same; and whereas the quantity of land embraced within the exception as aforesaid is as yet unascertained, by reason whereof the number of acres of said ceded lands which the Secretary of the Interior is authorized to sell in the manner and at the price aforesaid remains for the present unknown:

Now, therefore, I, Orville H. Browning, Secretary of the Interior, acting for and on behalf of the United States, and by virtue of the power upon me by the said treaty in that behalf conferred, do hereby agree, to and with the said James F. Joy, to sell unto him, his heirs and assigns, all of the hereinbefore-mentioned lands, which were by the seventeenth section of said treaty ceded in trust to the United States, with the exception of such parts thereof as are embraced within the tenor and effect of the said two provisos to the seventeenth section of said treaty, and which parts of said ceded lands are not included in this contract, at and for the sum of one dollar per acre in cash, payable and to be paid as soon as the number of acres hereby contracted to be sold is ascertained; and that on the full payment of the said purchase-money a patent or patents shall be in due form issued, granting the same unto the said James F. Joy, his heirs and assigns: *Provided, however*, That this contract is made subject to the rights reserved by the nineteenth article of said treaty to such of the Cherokees as, being heads of families, resided, at the date of the ratification of said treaty, on any of the said ceded lands.

And the said James F. Joy hereby, on his part, agrees to pay unto the Secretary of the Interior, or to such other officer of the Government of the United States as may be authorized to receive the same, the sum of one dollar in cash for each acre of land by this instrument contracted to be sold, as soon as the number of said acres shall be ascertained, and also to pay, for the benefit of such of the Cherokees as, being heads of families, resided on any of the said ceded lands at the date of the ratification of said treaty, and desire to remove from the same, the value of their improvements thereon reserved to them by the nineteenth article of said treaty, as soon as such value is ascertained in the manner provided in said article.

In witness whereof I, Orville H. Browning, Secretary of the Interior, have subscribed my name and caused the seal of said Department to be affixed hereunto; and the said James F. Joy has hereto, on his part, subscribed his name. All done in duplicate the day and year first above written.

[SEAL.]

O. H. BROWNING,
Secretary of the Interior.
JAMES F. JOY,
By N. BUSHNELL, *his Agent.*

Your committee cannot escape the conclusion that there was no inten-

tion upon the part of Harlan or Browning to give the people an opportunity to occupy these lands, a purpose to which these men were not strangers.

A dispute arose between the American Emigrant Company and Joy relative to their titles to said lands under their respective purchases, to settle which the device of a "supplemental treaty" was resorted to, which was made at Washington, concluded April 27, ratified June 6, and "proclaimed June 10, 1868." The contract made between Secretary Browning and James F. Joy, October 9, 1867, was by this new arrangement of June 10, 1868, canceled; and in the language of the supplemental treaty, "for the purpose of harmonizing the conflicting interests of the said American Emigrant Company and the said James F. Joy, it is the desire of all the parties in interest that the said American Emigrant Company shall assign their said contract, and all their right, title, claim, and interest in and to the said 'Cherokee neutral lands' to the said James F. Joy, and that the said Joy shall assume and conform to all the obligations of said company under their said contract, as hereinafter modified."

If the sale of Harlan to the Emigrant Company was null and void, its transfer to Joy was also a nullity; and why Browning, on June 10, 1868, then Secretary of the Interior, as he was when he officially, on October 20, 1866, declared the sale of Harlan null and void, acting with the responsibilities both of trustee for the Cherokee Indians, under this treaty of 1866, with regard to this neutral land, as well as filling the responsible office of Secretary of the Interior under the Government, would sanction this transfer of the Emigrant Company to Joy of rights and interests which he had officially declared did not exist, and why he should cause Joy to surrender the rights and interests which he by his sale to him officially declared did exist, and that he had attempted with official sanction to make good to him, thus throwing Joy back from the title which he had given him upon a bare and declared void agreement with Harlan, cannot be explained by the facts in the light of a straightforward transaction, and must look for its vindication in that reasoning which prompted the supplemental treaty of 1868. The Emigrant Company could readily see that the sale to Joy by Secretary Browning was as worthless and inexcusable as theirs from Harlan, and which facts they were forcing upon Secretary Browning, thus jeopardizing the sale he had made to Joy.

Your committee would call attention to the fact that this remarkable "supplemental treaty" cannot be found in the statute-book of the United States. Why it was excluded from the statutes is not known to your committee, for upon it alone Mr. Joy's title depends, as it offers the only attempt at confirmation of it. The sale to the Emigrant Company by Harlan having been declared null, and Joy having surrendered his purchase of Browning, the agreement and assignment named in the supplemental treaty is the only evidence of title Joy holds.

It appears that in all the successive stages of these remarkable negotiations, the first clause of article 17 of the treaty of 1866, which provides for the sale of these lands under sealed bids, "in parcels not exceeding 160 acres," &c., was entirely ignored, and that no official notice of any character was given of the intention to sell the whole of the lands in a body. The $1 per acre is not a fixed price in the treaty, but is a fixed minimum price.

It seems to your committee that, supposing the proceedings to be valid, a proper regard for justice to two thousand settlers who were upon these lands, and not at all protected by the treaty of 1866, would have dictated the carrying out of that clause in such a manner that

those settlers should at least have had an even chance with speculators to bid for their homes.

It has not, until within a few years at least, been the practice of such officers of the United States as were connected with the sales of our public lands to discriminate against actual settlers, and in favor of men or companies wishing to purchase such lands in large bodies.

Before the war a number of white families settled on this tract, and your committee cannot learn that any objection was made to their settlement, either by the Government or the Indians, until November 29, 1859. These settlers paid taxes and voted as early as 1859, and continually since. In October, 1860, one Cowan, a pro-slavery secessionist, acting in the interests of the rebellion, then agent for the Cherokees, came upon the tract, sustained by a company of United States troops, under command of Captain Sturges, of the United States Army. Your committee learn that fourteen cabins were burned, and at that stage of the affair an arrangement was made between the people and the miitary by which further ejectment of settlers was staid. It appears that the settlers sent a committee of two, accompanied by two other persons, to see President Buchanan, and that the President and Secretary of the Interior told the committee to go home and say to the settlers to stay on their claims, and they should never be moved from them; and that the Secretary of the Interior, Jacob Thompson, assured them he never had ordered them to be removed from those lands, and that they never would be ordered to leave them.

The interference of the military at that time was in the interest of slavery in that particular locality, and had no other significance or purpose. During the rebellion most of the settlers on these lands were compelled to temporarily abandon their homes; many entered the United States Army, leaving their families at Fort Scott and other places of security, and those who survived, and the families of those who did not survive, returned again at the close of the war. A great many soldiers and others have settled on these lands since the war.

It is declared by the settlers on this land that in March, 1866, President Johnson wrote to them to "go on and settle it up," and assured them of protection under the preëmption laws of the United States. Letters of similar purport were sent them by Senator Pomeroy, and letters of encouragement were sent them by others in official station at Washington.

It appears from the records of the Indian Office, and from the statement of citizens, that white settlers were encouraged to occupy these lands by the Indians themselves. As early as August 11, 1866, it appears that the recognized actual settlers on the neutral lands, being heads of families, numbered one thousand and thirty-one. At the date of the supplemental treaty (June 10, 1868) the number of families so occupying claims was more than three thousand, which will be fully sustained by reference to the voting lists.

It appears that these settlers claim right to titles under the homestead and preëmption laws of the United States by virtue of their having settled upon lands which, by laws of the United States, were subject to settlement, "and not otherwise appropriated;" and of having performed, as far as the Government has given them opportunity, all the conditions required by such laws, *and standing ready to perform all the conditions* as soon as the opportunity shall be afforded.

Mr. Joy, on the other hand, claims title to those lands by virtue of the sale made to him by authority of a treaty with the Cherokee Indians, as hereinbefore stated.

The case is one of great magnitude on account of the value of the land in contest; but of even much more importance because of the issues involved in its decision. The whole question of title in the neutral lands up to the present time is necessarily to be considered. The question of the right of the treaty-making power to dispose of lands in the condition in which this tract shall be proved to have been must form another branch of this investigation.

If the action of the treaty-making power shall be found to conflict with laws of Congress, the question must arise as to the proper jurisdiction in the premises; and if both shall be found to have taken action on the same ground, the question of supremacy, as between the treaty-making power and the law-making power, will hardly need argument to show that the law must prevail, especially when it is empowered by the very words of the Constitution; and, lastly, the rights of the people on the public lands must be defined and protected.

CHARTERED TITLES.

The title assumed by European nations to the soil of America, by virtue of discovery, was held and allowed to be an absolute, ultimate fee-simple. In all the dealings of the European discoverers with each other, this title was held to confer both political jurisdiction over the territory and the disposal of the property in the soil, regarding the Indian title as one of occupancy only. Your committee ask to be allowed to quote from the highest authorities to be found on this subject, the charters granted by the Crown to the colonists:

The charter granted by their Majesties King William and Queen Mary, to the inhabitants of the province of Massachusetts Bay, in New England, provides that all that part of America lying and being in breadth from forty degrees of northerly latitude from the equinoctial line, to the forty-eighth degree of the said northerly latitude, inclusively, and in length of and within all the breadth aforesaid throughout all the main lands from sea to sea, together also with all the firm lands, soils, grounds, havens, ports, rivers, waters, fishings, mines, and minerals, as well royal mines of gold and silver as other mines and minerals, precious stones, quarries, and all and singular other commodities, jurisdictions, royalties, privileges, franchises, and preheminences, both within the said tract of land upon the main, and also within the islands and seas adjoining: *Provided always*, That the said lands, islands, or any the premises by the said letters-patent intended and meant to be granted, were *not then actually possessed or inhabited by any other Christian prince or state*, or within the bounds, limits, or territories of the southern colony, then before granted by the said late King James the First, to be planted by divers of his subjects in the south parts: To have and to hold, possess and enjoy, all and singular the aforesaid continent, lands, territories, islands, hereditaments, and precincts, seas, waters, fishings, with all and all manner of their commodities, royalties, liberties, preheminences, and profits, that should from thenceforth arise from thence, with all and singular their appurtenances, and every part and parcel thereof, unto the said council, and their successors and assigns forever, to the sole and proper use and benefit of the said council and their successors and assigns forever, unto the said Sir Henry Roswell and George Foxcraft, their heirs and assigns forevermore: *Provided also*, That it shall and may be lawful for the said governor and general assembly to make or pass any grant of lands lying within the bounds of the colonies formerly called the colonies of the *Massachusetts Bay* and *New Plymouth* and province of *Maine*, in such manner as heretofore they might have done by virtue of any former charter or letters-patent; which grants of lands, within the bounds aforesaid, we do hereby will and ordain to be and continue forever of full force and effect without our further approbation and consent.

The charter to Rhode Island is "for the use and benefit of themselves and their associates, freemen of the said colony, their heirs and assigns."

The first charter of Virginia did, "by letters-patent under the great seal of England, give and grant unto such persons, their heirs and assigns."

The second charter of Virginia granted "to their heirs, successors, and assigns forever."

The Pennsylvania charter did "give and grant unto the said William Penn, his heirs and assigns, full and absolute power, license, and authority, that he, the said William Penn, his heirs and assigns, from time to time, hereafter, forever, at his and their will and pleasure, may assign, alien, grant, demise, or enfeoff of the premises, so many and such part or parcels to him or them that shall be willing to purchase the same, as they shall think fit: To have and to hold to them, the person or persons willing to take or purchase, their heirs and assigns, in fee-simple, or in fee-tail, or for the term of life or lives, or years."

The Maryland charter conferred the right "to have, hold, possess, and enjoy the said country, isles, inlets, and other premises, unto the said now Lord Baltimore, his heirs and assigns, to the sole and proper use and behoof of him, the said now Lord Baltimore, his heirs and assigns forever. * * * * The said now Lord Baltimore, his heirs and assigns, from time to time, hereafter, forever, at his and their will and pleasure, may assign, alien, grant, demise, or enfeoff of the premises, so many or such part or parcels to him or them that shall be willing to purchase the same as they think fit: To have and to hold to them, the said person or persons willing to take or purchase the same, their heirs and assigns, in fee-simple, or in fee-tail, or for the term of life or lives, or years."

ABSOLUTE, ULTIMATE FEE-SIMPLE TITLE IN THE UNITED STATES—THE INDIAN TITLE ONE OF OCCUPANCY ONLY.

As under the European governments the public domain, including all newly-discovered countries, was held to be the property of the Crown, so, under our form of government, all public and unoccupied lands are held to be the property of the United States; and the relation between the Indian tribes and the Government of the United States is held to be the same that existed between them and the European discoverers, the universal rule having been to consider the Indians as occupants of the soil merely, and subject to removal at the will of the Government. In support of these views your committee presents the following valuable authorities :

The ambition of Henry the Seventh was roused by the communications of Columbus, and in 1495 he granted a commission to John Cabot, an enterprising Venetian, then settled in England, to proceed on a voyage of discovery, and to subdue and take possession of any lands unoccupied by any Christian power, in the name and for the benefit of the British Crown. (Story on the Constitution, vol. 1, p. 3.)

Such is the origin of the British title to the territory composing these United States. That title was founded on the right of discovery, a right which was held among the European nations a just and sufficient foundation on which to rest their respective claims to the American Continent. It became the basis of European polity, and regulated the exercise of the rights of sovereignty and settlement in all the cisatlantic plantations. (Story on the Constitution, vol. 1, p. 2.)

The Papal authority, too, was brought in aid of these great designs; and for the purpose of overthrowing heathenism and propagating the Catholic religion, Alexander the Sixth, by a bull issued in 1493, granted to the Crown of Castile the whole of the immense territory then discovered, or to be discovered, between the poles, so far as it was not then possessed by any Christian prince. (Story on the Constitution, vol. 1, p. 5.)

The latter (the Indians) were admitted to possess a present right of occupancy or use in the soil, which was subordinate to the ultimate dominion of the discoverer. They were admitted to be the rightful occupants of the soil, with a legal as well as a just claim to retain possession of it and use it according to their own discretion. In a certain sense, they were permitted to exercise rights of sovereignty over it. They might sell or transfer it to the sovereign who discovered it; but they were denied the authority to dispose of it to any other persons; and, until such a sale or transfer, they were generally permitted to occupy it as sovereigns *de facto*.

But notwithstanding this occupancy, the European discoverers claimed and exercised the right to grant the soil while yet in possession of the natives, subject, however, to their right of occupancy; and the title so granted was universally admitted to convey a sufficient title in the soil to the grantees, in perfect dominion, or, as it is sometimes expressed in treaties of public law, it was a transfer of *plenum et utile dominium*. (Story on the Constitution, vol. 1, p. 6.)

We have also seen that the title of the Indians was not treated as a right of propriety and dominion, but as a mere right of occupancy; there is not a single grant from the British Crown, from the earliest of Elizabeth down to the latest of George the Second, that affects to look to any title except that founded on discovery. Conquest or cession is not once alluded to. (Story on the Constitution, vol. 1, p. 101.)

These facts have been taken for granted in the transactions of our Government with the Indians, and with our own citizens.

By the charters from the British Crown the title to the land passed to the several colonies, and when the treaty of peace was ratified between the government of Great Britain and the United States of America, (treaty of Ghent,) the British Crown surrendered all ultimate right to the soil of these colonies, as well as all political power over the territory. This, however, left the title to the soil in the several colonial governments within their charter limits.

In the formation of our Government it became necessary to hold the title to the public domain in the General Government; and, to promote the public weal, the several (colonies) States conveyed the soil of, and jurisdiction over, their unoccupied lands to the General Government, as follows: Virginia, in 1784; Massachusetts, 1785; Connecticut, 1800; South Carolina, 1787, and Georgia, in 1802. It will be seen that by these cessions of the several States, and by treaties with other nations, the United States became possessed of the same title formerly held by these colonies and formerly by the Crown.

In the case of the Cherokee Nation *vs.* State of Georgia, the opinion of the court was delivered by Chief Justice Marshall. (5 Peters, p. 48; 9 Curtis, (4 and 5 Peters,) p. 181.) In speaking of the Cherokee Indians, the court said:

Though the Indians are acknowledged to have an unquestionable and heretofore unquestioned right to the lands they occupy, until that right shall be extinguished by a voluntary cession to our Government, they occupy a territory to which we assert a title independent of their will, which must take effect in point of possession when their right of possession ceases.

In Worcester *vs.* State of Georgia, (6 Peters, p. 580,) in speaking of the Indian tribes, Mr. Justice McLean, delivering the opinion of the court, said:

Their right of occupancy has never been questioned; but the fee in the soil has been considered in the Government. This may be called the right to the ultimate domain, but the Indians have a present right of possession.

In Johnson *vs.* McIntosh, (8 Wheaton, p. 574,) Chief Justice Marshall, in delivering the opinion of the court, said:

Their power to dispose of the soil, at their own will, to whomsoever they pleased, was denied by the original fundamental principle that discovery gave exclusive title to those who made it. While the different nations of Europe respected the right of the natives as occupants, they asserted the ultimate dominion to be in themselves, and claimed and exercised, as a consequence of this ultimate dominion, a power to grant the soil while yet in possession of the natives. These grants have been understood by all to convey a title to the grantees subject only to the Indian right of occupancy.

Page 579 of the same:

Thus has our whole country been granted by the Crown while in the occupancy of the Indians. These grants purport to convey the soil as well as the right of dominion to the grantees. In all of them the soil, at the time the grants were made, was occupied by the Indians; yet almost every title within these governments is dependent on these grants. In some instances the soil was conveyed by the Crown, unaccompanied by the powers of government, as in the case of the Northern Neck of Virginia.

Page 587 of the same:

The power now possessed by the Government of the United States to grant lands resided, while we were colonies, in the Crown, or its grantees. The validity of the title given by either has never been questioned in our courts. It has been exercised uniformly over territory in possession of the Indians. The existence of this power must negative the existence of any right which may conflict with and control it. An absolute title to lands cannot exist at the same time in different persons or in different governments. An absolute title must be an exclusive title, or at least a title which excludes all others not compatible with it. All our institutions recognize the absolute title of the Crown, subject only to the Indian right of occupancy, and recognize the absolute title of the Crown to extinguish that right. This is incompatible with an absolute and complete title in the Indians.

December 26, 1854, McClelland, Secretary of the Interior, decided that the Oneida Indians "have no right to cut timber upon the lands of the tribe" except for their own use; and says he will "enforce the laws to prevent trespasses upon public lands," if they do not desist.

Cushing, Attorney General, said, (Opinions of Attorneys General, vol. 8, page 255:)

Lands may be granted in fee to private persons as well before as after the extinguishment of the Indian title.

In Mitchell *et al. vs.* The United States, (9 Peters, p. 745,) the Supreme Court said:

Subject to this right of possession, the ultimate fee was in the Crown and its grantees, which could be granted by the Crown or colonial legislatures while the lands remained in possession of the Indians, though possession could not be taken without their consent.

In Lattimer and others *vs.* Poteet, (14 Peters, p. 14,) the land in contest lay in North Carolina, and was held by the State under the old charter, (2 Laws United States, 85,) and was granted by the State, on the 20th of July, 1796, to William Cathcart, though at the time of the granting it was occupied by the Cherokee Indians. The Supreme Court said:

The Indian title being only a right of occupancy, the State of North Carolina had the power to grant the fee in the lands subject to this right.

The United States Supreme Court, in case of United States *vs.* Hernandez, (10 Peters, p. 303,) said:

Under the British government, then, the governor of East Florida had express power to make grants of lands in the possession of the Indians. Nor does there appear to have been any restriction on the powers of the governor (the Spanish governor) to make grants of lands under Spain other than those imposed on the governors under Great Britain; both made grants without regard to the land being in the possession of the Indians; they were valid to pass the right of the Crown, subject to their right of occupancy; when that ceased, either by grant to individuals with the consent of the local governors, by cession to the Crown, or the abandonment by the Indians, the title of the grantee became complete.

Mr. Cushing said, (Opinions of Attorneys General, vol. 8, p. 262:)

When the United States made this grant to the State of Wisconsin, *the fee of all the land was in the United States*, subject, in respect to a part, to the *occupancy* of the Menomonees; that *usufructuary occupation* was capable of being extinguished by the United States, *and by them alone;* and, until its extinction, the entire original title remained between them and the Indians. What rule of law stood in the way to forbid the United States to convey to the State of Wisconsin such title as they had? I know of none. By what rule of law is it that the United States, as proprietors, are deprived of this common right of all proprietors? And by what rule of law is it that the benefit of this common right is taken away from the grantees of the United States?

Your committee submit the statements of Mr. Harlan, chairman of the Committee on Indian Affairs of the Senate of the United States, made on the floor of the Senate, on Senate bill No. 529, May 24, 1870, relative to Osage Indian lands in Kansas. Mr. Harlan said:

But, Mr. President, is it true in point of fact that this language is so very objectionable? What other phraseology would be more apt? These Indians are not the absolute

owners of these lands. By the terms of the treaty of 1825, this tract of country was reserved for the use of the Indians, just "so long as they may choose to occupy the same."

They had, therefore, no other title than this. Under the provisions of that treaty, they have the right to the use and the enjoyment of these lands. The fee is in the United States. The fee, it is supposed, was purchased of France, and paid for when the territory was acquired from that government. As construed by the highest courts of the country, the fee to the public domain occupied by Indians is in the United States. The Indian tribes found in occupancy are held to own only the right to the use and enjoyment of the land; nothing more. When they abandon these lands voluntarily, the United States obtained perfect title without the formality of the negotiation of a treaty. The mere abandonment of the lands by the savage tribes gives the United States a perfect title in fee, not only the reversionary right, but also the right to the immediate use and enjoyment. These Indians acquired no title of any kind from the United States. The United States did not, in that or any other treaty, grant to the Indians title to these lands. The Indians reserved the lands, and held them under whatever right of title they derived from their ancestors. They therefore hold by the ordinary Indian title; nothing more.

If, then, the title to these lands is divided, the right to the use and enjoyment being in the Indians, and the right to the reversion, by the fee, being in the United States, is there any inaptness in the phraseology proposed by the committee, "that the United States shall assume the absolute control and ownership," after buying out the Indian title, after paying full compensation for these lands according to agreement? The object of this clause of the proposed law is to merge both titles, the Indian title to the possession and the right to the fee, in the Government of the United States, so as to enable the United States to make a complete title to its grantee.

SOLE POWER OF CONGRESS TO DISPOSE OF THE PUBLIC LANDS.

Under monarchical governments concerned in discoveries in America such tracts of the country as the different nations laid claim to were held as the "property of the Crown." Grants or sales made by the Crown to other nations or to individuals passed the absolute title to the soil. In some cases, however, the title was retained in the Crown, and large tracts were leased by the Crown to companies or to private persons, as in the case of Georgia and some others.

But under our republican form of government "the territory and other *property* belonging to the *United States*" is practically the property of *the people*. The Congress has, from the foundation of our Government, been regarded by the people as the guardian of the political and personal rights of the people, and as the custodian of the material interests of the nation. The framers of the Constitution and the conventions, whose votes made it the fundamental law of the land, carefully provided (article 1, section 9) that "no money shall be drawn from the Treasury but in consequence of appropriations made by law;" and (article 1, section 7) that "all bills for raising revenues shall originate in the House of Representatives."

Thus not only was the control of the purse of the nation placed in the hands of "Congress," but the *people*, jealous of the branch of *that body* least directly responsible to the *people*, placed that control very much more in the hands of *their most direct agents*, the members of the House of Representatives.

No proposition to remove money from the *pockets of the citizens*, directly or indirectly, and place it in the public treasury, can be constitutionally originated except by the lower house; and no money can constitutionally be removed from the *public Treasury*, for any purpose whatever, without the concurrence of both houses of Congress. Your committee insist that the power of "Congress" over the "territory," to which the United States hold the absolute, ultimate fee-simple title, and which has been shown, by quotations from the highest possible authorities on the subject, to include lands occupied by Indians, as well

as public lands not so occupied, is a power vested *solely* and *exclusively* in that department of our Government which is composed of the "*Senate and House of Representatives;*" and that *neither branch of Congress, acting separately, or in conjunction with any other department or officer of our Government, can, by any process, direct or indirect, "dispose of" any portion of such "territory," in any way or manner whatever, without the express concurrence of the other branch of "Congress.*"

The language of the Constitution of the United States is very plain on this subject. The Constitution itself (article 1, section 1) says: Congress "shall consist of a Senate and House of Representatives;" and article 4, section 3, "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

The language, "shall have power," used to place the disposition of the public domain in the hands of Congress, is precisely the same as that used in the same instrument to give power to Congress (article 1, section 8) to "lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defense and general welfare of the United States; to borrow money on the credit of the United States; to regulate commerce with foreign nations, and among the several States, and with the Indian tribes; to establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States; to coin money, regulate the value thereof and of foreign coin; and fix the standard of weights and measures; to provide for the punishment of counterfeiting the securities and current coin of the United States: to establish post offices and post roads; to promote the progress of science and useful arts; * * * * * to constitute tribunals inferior to the Supreme Court; to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations; to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water; to raise and support armies; * * * * * to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions; to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; * * * to exercise exclusive legislation in all cases whatsoever over such district," &c.; * * "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

To grant to the treaty-making power the disposition of the public lands, the absolute title to which is in the United States, is to grant it the power by treaty to do all the other acts that the Constitution declares "Congress shall have power" to do.

But your committee are not left to determine the nature and extent of this power of Congress by these plain words alone. Repeated decisions of the highest judicial tribunal of the land, as well as many official opinions of Attorneys General, and also of heads of Departments, have defined the character of that power beyond a possible doubt.

In Bagnell *et al. vs.* 2 Broderick, 13 Peters, p. 450, (13 C. R., 235,) the Supreme court said:

> Congress has the sole power to declare the effect and dignity of titles emanating from the United States.

In Wilcox *vs.* Jackson, (13 Peters, p. 517,) the Supreme Court said:

We hold the true principle to be this, that whenever the question in any court, State or federal, is whether a title to land which had once been the property of the United States has passed, *that question must be resolved by the laws of the United States.*

In United States *vs.* Fitzgerald, (15 Peters, p. 421,) the Supreme Court said:

No appropriation of land can be made for any purpose but by authority of Congress.

In United States *vs.* Gratiot *et al.*, 14 Peters, p. 537, (Indiana Lead Mine Case,) the President, by authority given to him by act of Congress of March 3, 1807, had "leased" certain lead mines to J. P. B. Gratiot and Robert Burton. Gratiot & Burton had given to the United States a bond, with a penalty of ten thousand dollars. The United States pleaded certain breaches of the bond, and brought an action of debt, founded on the bond. In giving its decision the court said:

That the mines now in question lie within the territory referred to in the act of Congress, and are the property of the United States, is not denied. And the Constitution of the United States (article 4, section 3) provides "that Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States." The term territory, as here used, is merely descriptive of one kind of property, and is equivalent to the word lands. And Congress has the same power over it as over any other property belonging to the United States; and this power is vested in Congress without limitations, and has been considered the foundation upon which the territorial governments rest. In the case of McCulloch *vs.* The State of Maryland, (4 Wheaton, 422,) the Chief Justice, in giving the opinion of the court, speaking of this article and the powers growing out of it, applies it to the territorial governments, and says all admit their constitutionality.

On the 21st of March, 1870, in the case of Whitney *vs.* Frisbie, the Supreme Court of the United States again decided the power of Congress over the public lands to be supreme.

The President, under authority conferred upon him by act of Congress of June 14, 1809, had selected Rock Island for a military reservation. The question arose as to whether Rock Island was subject to preëmption under the laws of the United States. Bates, Attorney General, said, (Opinions of Attorneys General, vol. 10, p. 361:)

This selection of Rock Island for military purposes was not, as we have seen, the unauthorized act of the President, but was made in the exercise of a discretion vested in him by Congress. The Constitution vests in Congress the power to dispose of, and make all needful rules and regulations respecting, the territory or other property of the United States. The word "territory," as here used, is held to be equivalent to the word lands, (United States *vs.* Gratiot, 14 Peters, 537;) *and the power to dispose of the public lands under this clause, whether by sale or by appropriation to other uses, belongs to Congress*, and not to the President. It will be conceded, I suppose, that without the authority of *Congress* the President could not have selected a portion of the public lands, and, by the erection and occupancy of a fort, devoted it to military purposes. In every instance where this has been done sufficient legislative authority will be found for the act either in the form of a general statute, such as the act of 1809, or of special enactment. The withdrawal of the land from the uses to which, under the authority of an act of Congress, it had been appropriated, and its appropriation to other and different uses, would be simply an attempt to *dispose of* it, the power to do which, as we have seen, *resides only in Congress.* The appropriation of the public domain, *either to public or private use, is eminently an act of sovereign power.* It is the *exercise of ownership*, and implies the right of control over the title. *It is a conversion of the property of the nation equal in responsibility and gravity with the appropriation of the public money, and derives its authority from the same high source.* Under our system, this extreme power resides *only in Congress.* As the Executive can draw no *money* from the *Treasury* but in consequence of an *appropriation made by law*, so he cannot *divest the title* to a foot of the public lands without the *same legislative sanction.*

Story (On the Constitution, vol. 1, p. 312) said:

Every power given to Congress is, by the Constitution, necessarily supreme.

Again, page 374:

There are many reasons which may be assigned for the engrossing influence of the legislative department. In the first place, its constitutional powers are more exten-

sive and less capable of being brought within precise limits than those of either of the other departments. The bounds of the executive authority are easily marked out and defined. It reaches few objects, and those are known. It cannot transcend them without being brought in contact with the other departments. Laws may check and restrain and bound its exercise. The same remarks apply with still greater force to the judiciary. The jurisdiction is, or may be, bounded to a few objects or persons; or, however general and unlimited, its operations are necessarily confined to the mere administration of private and public justice. It cannot punish without law. It cannot create controversies to act upon. It can decide only upon rights and cases as they are brought by others before it. It can do nothing for itself. It must do everything for others. It must obey the laws, and if it corruptly administers them it is subjected to the power of impeachment. On the other hand, the legislative power, except in the few cases of constitutional prohibition, is unlimited. It is forever varying its means and its ends. It governs the institutions and laws and public policy of the country. It regulates all its vast interests. *It disposes of all its property.* Look but at the exercise of two or three branches of its ordinary powers. It levies all taxes; it directs and appropriates all supplies; it gives the rules for the descent, distribution, and devises of all property held by individuals. It controls the sources and the resources of wealth. It changes at its will the whole fabric of the laws. It molds at its pleasure almost all the institutions which give strength and comfort and dignity to society.

Clifford, Attorney General, said, (Opinions Attorneys General, vol. 4, p. 696:)

Congress has the exclusive power, under the Constitution, to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States.

Again, page 706:

The power over the public lands is vested by the Constitution *exclusively in Congress,* and the President has no authority over the subject, except what may be inferred from the general power to see that the *laws* are faithfully executed, unless it be conferred upon him by an *act of Congress;* nor can the power, when conferred, be *exercised in any other form or mode of proceeding than that which the law prescribes.* This view is too firmly established by the Constitution, as a primary principle in the distribution of its powers, to need any confirmation, and the proposition is too palpable to require any illustration to enforce it.

An officer of the United States Army had sold a quantity of lead belonging to the Government. The court (Thompson, J.) said, (1 Paine, p. 649, circuit court of the United States for the second circuit, comprising the districts of New York, Connecticut, and Vermont, October term, 1826:)

The Constitution declares that Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property of the United States. No public property can therefore be disposed of without the authority of law, either by an express act of Congress for the purpose, or by giving the authority to some department or subordinate agent. No law has been shown authorizing the sale of this lead. Our Government being a government of laws, it speaks to its agents *through its laws; and it is to them only that we are to look for the authority of such agents.* And no *law* having been shown, authorizing the sale of the lead in question, or *vesting in any department* of the Government any general authority to sell public property, no such sale can be inferred from any of the circumstances appearing in this case.

Attorney General Mason said, (Opinions of Attorneys General, vol. 4, p. 86:)

The third section of the fourth article of the Constitution declares that the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property of the United States. The term employed was adopted from the ordinance of 1785, and *comprehends every mode* by which the *lands* and other property of the United States could be parted with by the Government, whether by *sale, gift, or for any limited interest. This power has been invariably exercised by Congress. The sales of the public lands—the territorial property of the United States—have been in all cases directed and regulated by law.*

The subject of this disposition of the "territory" belonging to the United States has been several times acted upon by the House of Representatives; and its denial of the right of the treaty-making power to "dispose of" Indian lands has been uniform and persistent.

PROCEEDINGS IN THE HOUSE.

JUNE 1, 1868.

By Mr. JULIAN:

Whereas the Indian tribes of the United States have no power by treaty to dispose of their lands, except the power of cession to the United States; and whereas a treaty is now being negotiated between the Great and Little Osage Indians and a special Indian commission acting on the part of the United States, by which 8,000,000 acres of land belonging to those Indians are to be transferred to the Leavenworth, Lawrence, and Galveston Railroad Company, in contravention of the laws and policy of the United States affecting the public domain: Therefore,

Resolved, That the President of the United States be requested to inform this House by what authority and for what reason the said lands are to be disposed of as above recited, and not ceded to the United States and made subject to their disposition.

Passed unanimously.

In reference to the same treaty then pending before the Senate Committee on Indian Affairs, June 18, 1868, the following resolution was offered by Mr. Clarke, of Kansas:

Resolved, (as the sense of this House,) That the objects, terms, conditions, and stipulations of the aforesaid pretended treaty are not within the treaty-making power, nor are they authorized either by the Constitution or laws of the United States; and therefore this House does hereby solemnly condemn the same, and does also earnestly but respectfully express the hope and expectation that the Senate will not ratify the said pretended treaty.

Passed unanimously.

June 27, 1868.—By Mr. Julian, resolution denying the right of treaty-making power to dispose of Indian lands. Passed.

Joint resolution (H. R. 286) relative to the lands of the Cherokee and Great and Little Osage Indians.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled: That the President of the United States be, and he is hereby, directed to withhold the issuing of patents to the purchasers of lands heretofore sold, or which may hereafter be sold, under and by virtue of the treaty between the United States and the Cherokee Indians, concluded on the nineteenth day of July, in the year eighteen hundred and sixty-six, and the treaty between the United States and the Great and Little Osage Indians, concluded on the twenty-ninth day of September, in the year eighteen hundred and sixty-five, or under any Indian treaty which may hereafter be concluded, until otherwise provided for by law.

Passed the House of Representatives June 3, 1868.

Attest: EDWARD McPHERSON, *Clerk.*

[H. R. 335.]

JOINT RESOLUTION for the protection of settlers on the Cherokee neutral lands in Kansas.

Whereas in the treaty between the United States and the Cherokee Nation of Indians, made July nineteenth, eighteen hundred and sixty-six, proclaimed August eleventh, eighteen hundred and sixty-six, there is a provision purporting to authorize a sale by the Secretary of the Interior of Cherokee neutral lands in Kansas, but which reserves from sale lands having improvements of the value of fifty dollars, not being mineral, and occupied by any person for agricultural purposes, and which gives to occupants the right to purchase one hundred and sixty acres each of said lands, under and by virtue of which about eight hundred families are provided for; and whereas, between August eleventh, eighteen hundred and sixty-six, and June sixth, eighteen hundred and sixty-eight, about two thousand seven hundred additional families have settled on said Cherokee neutral lands, each family occupying one hundred and sixty acres, on which improvements have been made at an average cost of about five hundred and ten dollars, besides expenditures for living of four hundred and fifty dollars for each family, said settlements and improvements being made without objection from any source, and on the faith that the settlers would be protected in the right to acquire title to said lands as other settlers on the public lands; and whereas, on the thirtieth day of August, eighteen hundred and sixty-six, a contract was made by and between James Harlan, Secretary of the Interior, and the American Emigrant Company for the sale of certain portions of said lands, which contract has been assigned by said company to James F. Joy, said contract and assignment being on file in the Department of the Interior; and whereas a supplementary treaty between the United States and said Cherokee Nation was made April twenty-seventh, eighteen hundred

and sixty-eight, ratified June sixth, and proclaimed June tenth, eighteen hundred and sixty-eight, all without any knowledge thereof by any of the persons occupying said lands, and which ratifies said contract with the American Emigrant Company, and the assignment thereof to said Joy, with certain modifications provided in said supplemental treaty, but which makes no provision for the protection of the persons or families who have settled upon and improved said lands, but purports to ratify a sale of said lands, including the improvements thereon: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where any person, prior to June tenth, eighteen hundred and sixty-eight, shall have settled on any tract of land of one hundred and sixty acres, or less, in the body of lands known as the Cherokee neutral lands, and shall have made improvements thereon of the value of fifty dollars, and occupied such tract for agricultural purposes, such person, his heirs or assigns, so occupying any such tract of land, shall, after due proof made in such manner as may be prescribed by the Secretary of the Interior, be entitled to enter and receive a patent for the lands so occupied, on paying one dollar and twenty-five cents an acre within one year, in such manner as the Secretary of the Interior may prescribe; and the money so to be paid for said lands shall be paid over to said Cherokee Indians.

Passed the House of Representatives July 13, 1868.

Attest: EDWARD McPHERSON, *Clerk.*

[H. R. 73.]

JOINT RESOLUTION relative to the Cherokee neutral lands in the State of Kansas, and the late treaties respecting the same.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the treaties between the United States and the Cherokee Nation of Indians, proclaimed August eleventh, eighteen hundred and sixty-six, and June tenth, eighteen hundred and sixty-eight, as profess to authorize a sale of the lands described in the seventeenth article of said first-mentioned treaty, and all contracts and grants purporting to be made thereunder, be, and are hereby, annulled and declared void; and said lands shall be, and are hereby, made subject to settlement, entry, and sale at one dollar and twenty-five cents per acre, under the laws of the United States regulating preëmptions, which laws are hereby extended over and made applicable to said lands; and the proceeds of the sales of said lands shall be from time to time paid over to said nation of Indians, until the sum paid shall be equal to one dollar and twenty-five cents per acre for all said lands; and the Secretary of the Treasury shall refund all moneys paid to the United States under any sale made by virtue of said treaty: *Provided*, That the purchasers of said lands shall pay the fees and expenses of their several purchases from the Government as required of other preemptors: *And provided further*, That when bona fide settlers are found on the sixteenth and thirty-sixth sections of said land, the same shall not be reserved for school purposes, but other lands of like amount in said tract, as contiguous thereto as may be, not occupied by settlers, shall be substituted therefor, and designated by the State of Kansas.

Passed the House of Representatives April 5, 1869.

Attest: EDWARD McPHERSON, *Clerk.*

CONFLICT BETWEEN LAW AND TREATY-MAKING POWER.

Every attempt to "dispose of" any part of the Cherokee neutral lands by virtue of the treaty of August 11, 1866, or the supplemental treaty of June 10, 1868, or both of them, *conflicts directly* with the acts of Congress of May 28, 1830, September 4, 1841, July 22, 1854, and June 2, 1862.

It is, in brief, an attempt by the act of the Executive, by and with the advice and consent of the Senate, by a contract entered into in the name of a treaty, but executed with persons within our own domain, and subject to our laws, to annul the laws of Congress, reserving the ultimate title to the public domain in the Government as against Indian tribes: to defeat the laws granting and extending rights to preëmptors and actual settlers on the public lands, and absolutely to sell the public lands by the act of the President and Senate, without law.

The supremacy of the law-making power over every other branch of our Government, in every instance where the subject-matter is within

the province of Congress, is a necessary and inevitable consequence of our democratic republican ideas, and our practical political institutions.

> This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the *supreme law of the land.* (Constitution, article 6.)

The Constitution is recognized as the fundamental and supreme law of the land, to which all acts of Congress, all treaties, all decisions of United States courts, and every official act of every United States officer, must conform.

"Laws made in pursuance thereof" can only mean laws made by Congress. The Constitution (article 1, section 1) said:

> All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

"Treaties made or which shall be made under the authority of the United States." What is this authority?

The instrumentality through which the authority of the United States is to be primarily exercised is stated in words which cannot possibly be mistaken in the Constitution itself, (article 1, section 8): "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Goverment of the United States or in any department or office thereof."

By the plain English of the Constitution *every power of the National Government*, and of *any department or officer* of that Government, is to be *exercised in accordance with*, and to be *regulated by, laws made by Congress*.

The dominating power of Congress over the treaty-making power has often been asserted by our greatest statesmen and best lawyers. It has been used by Congress to abrogate treaties with *foreign powers.* (See act of July 7, 1798, U. S. Statutes at Large, vol. 1, page 578; also Barclay's Digest for 1867, page 135; also, see American Law Register, January, 1868, vol. 7, No. 3, N. S., page 149, case of Gray *vs.* The Clinton Bridge.)

Attorney General Legare, in the case of certain "Missouri land claims," (Op., vol 3, page 721,) held that though a treaty with France had stipulated that certain individuals were to receive from the United States titles to parcels of the territory ceded by that treaty to the United States, still Congress had the power to refuse such titles; and that the executive branch of the Government was "bound by the will of Congress in the premises."

In the case of Maison-Rouge grant, (Op., vol. 3, p. 737,) Mr. Legare, Attorney General, Congress having refused to confirm certain claims guaranteed by treaty with France, said:

> The legislature, for reasons satisfactory to itself, and according to principles which I had the honor to develop more fully in a recent communication to you on the subject of the Missouri land titles, chose to acknowledge those claims only *sub modo* and to a limited extent. *Its will is our law.*

General Eli S. Parker, our present Commissioner of Indian Affairs, and himself an Indian, in his last report, said:

> A treaty involves the idea of a compact between two sovereign powers, each possessing sufficient authority and force to compel a compliance with the obligations incurred. The Indian tribes of the United States are not sovereign nations capable of making treaties, as none of them have an organized government of such inherent strength as would secure the faithful obedience of its people in the observance of compacts of this character.

TREATY SALES.

Your committee find that the practice of disposing of large tracts of "Indian lands" to railroad companies, and other speculators, by virtue

of Indian treaties, was commenced on the 30th day of May, 1860, by treaty with the Delaware Indians, of that State, which treaty undertook to pass to the Leavenworth, Pawnee and Western Railroad Company 223,966.78 acres of land.

The treaty with the Cherokees of August 11, 1866, attempting to dispose of the Cherokee neutral lands, (800,000 acres,) and the Cherokee strip containing —— acres, was the last of these iniquitous transactions that has been confirmed by the Senate.

During the war these seem to have passed unnoticed; but in the spring of 1868 public attention was arrested by this neutral land case, and by what has been known as the "Osage treaty."

The latter was a proposition to transfer to *one man*, Sturges, of Chicago, 8,000,000 acres of Osage Indian lands, at nineteen cents per acre, to be paid for in annual installments during a period of fifteen years; and even these stipulated payments were insufficiently guaranteed; no provision was made for the settlement of the country, or for the lands to which the State of Kansas was entitled for school purposes; a tract of land, two hundred and fifty miles long and fifty miles in width, out of the territory of the United States, to be transferred to one man for speculative purposes.

Such an attempt could only have been the result of past success on the part of the operators under this "treaty sale" system; and it is no wonder that it challenged and received the attention of the nation. (This attempted sale of the Cherokee neutral lands, by treaty of August 11, 1866, was the last of the treaty sales.)

On the 14th of March, 1870, on motion of Mr. Drake, the Senate of the United States "ordered that the injunction of secrecy be removed from all pending Indian treaties." This formally places the business, which has for so long a time been transacted by means of these so-called Indian treaties, upon the calendar of the Senate as "legislation;" and accordingly we find that there are now (May 16) before the Senate of the United States five *bills* for the disposition of lands now occupied by as many tribes of Indians.

The withdrawal by the President, during the present session of Congress, of the Osage, Kaw, Sac and Fox, and Otoe treaties, renders assurance doubly sure that no more Indian lands will be disposed of by these so-called "treaty sales."

These four treaties were negotiated during the time O. H. Browning was Secretary of the Interior, and comport with the proceedings in the Joy purchase, having for their purpose private speculations at the public expense. They were withdrawn before action by the Senate, on the recommendation of Secretary Cox.

INDIAN TITLE TO NEUTRAL LANDS NOT A FEE-SIMPLE.

It is shown that the title to the tract known as the "Cherokee Neutral Lands," was vested in the United States by the treaty with France, April 30, 1803. The United States could only be divested of that title by act of Congress; and no person or company could hold any valid title except by virtue of positive law. It follows, necessarily, that if no such act has been passed by Congress, the title yet remains in the United States.

Your committee have searched in vain for any such act of Congress.

The law of May 28, 1830, confers no power on the President and Senate to "sell" one foot of public land. The power given was only to "exchange" land west for land east of the Mississippi with Indian

tribes, reserving the power of reversion of title to the Government in case of abandonment or extinction of the tribe.

In section 1 of that law the word *exchange* occurs once; in section 2, once; in section 3, three times; in section 4, once; and in section 5, twice; but there is not the slightest allusion to any power of *sale*, or to any other power but the power to *exchange*, and that for other lands.

Section 2 of this law defines the character of the lands east of the Mississippi for which the treaty-making power was authorized to exchange lands west of that river, as territory "claimed and occupied by such tribe or nation, within the bounds of any one or more of the States or Territories where the land claimed and occupied by the Indians is owned by the United States."

SEC. 3. *And be it further enacted*, That in the making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guarantee to them and their heirs or successors the country so exchanged with them; and if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided always*, That such lands shall revert to the United States if the Indians become extinct or abandon the same.

It is contended by Mr. Joy that the treaty with the Cherokees of December 29, 1835, guaranteed to them a "fee-simple title." Your committee admit that that treaty undertook to do so, but assert that it did not and could not, for want of power in the premises. The treaty of 1835 ceding this land was made with the Cherokees under the law of May 28, 1830, and in itself specially referred to that law and could not transcend that statute. Your committee further assert that the patent provided for in that treaty and given to the Cherokees for this and the other lands ceded by it, executed in 1838, cannot be held to confer anything more than a right to occupy the lands until certain specified conditions should be fulfilled; at which time, by the express wording of the patent itself, the lands reverted to the United States.

Article 3 of the treaty of 1835 says:

The United States also agree that the lands above ceded by treaty of February 14, 1833, including the outlet, and those ceded by this treaty, shall all be included in one patent executed to the Cherokee Nation of Indians by the President of the United States, according to the provisions of the act of May 28, 1830.

Thus the treaty itself stipulates for *one patent*, in which is to be placed the reversionary clause of the law of 1830.

The following is a copy of the granting clause of the patent of 1838, by which the Cherokees held *all the lands ever claimed by them west of the Mississippi.* This patent is recorded in full in the General Land Office at Washington, District of Columbia.

Therefore, in execution of the agreements and stipulations contained in the said several treaties, the United States have given and granted, and by these presents do give and grant, unto the said Cherokee Nation the two tracts of land so surveyed and hereinbefore described, containing in the whole 13,374,135$\frac{14}{100}$ acres; to have and to hold the same, together with all the rights, privileges, and appurtenances thereunto belonging, to the said Cherokee Nation forever, subject, however, to the right of the United States to permit other tribes of red men to get salt on the salt plain on the Western Prairie, referred to in the second article of the treaty of the twenty-ninth of December, one thousand eight hundred and thirty-five, which salt plain has been ascertained to be within the limits prescribed for the outlet agreed to be granted by said article, and subject also to all the other rights reserved to the United States in and by the articles hereinbefore recited, to the extent and in the manner in which the said rights are so reserved, and subject also to the condition provided by the act of Congress of the 28th of May, 1830, and which condition is, "that the lands hereby granted shall revert to the United States if the said Cherokees become extinct or abandon the same."

This was not a fee-simple title; it was not a life estate; it was occupancy only.

FEE-SIMPLE TITLE.

Wharton's Law Dictionary, p. 297:

Fee-simple. A freehold estate of inheritance, absolute and unqualified, stands at the head of estates as the highest in dignity, and the most ample in extent, since every other kind of estate is derivable thereout and mergeable therein. * * * * A fee-simple generally is pure, without condition and unrestrained, except by the laws of escheat, and the canons of real property descent. * * * A person who holds "in fee-simple" is he which hath lands or tenements to hold to him and his heirs forever; for if a man would purchase lands or tenements in fee-simple, it behooveth him to have these words in his purchase: to have and to hold to him and to his heirs; for these words (to his heirs) make the estate of inheritance.

In practice the phrase universally adopted in the designation clause of deeds, in order to transfer a fee-simple absolute, is: to A, his heirs and assigns forever, * * an uncontrollable power of alienation, whether by deed, gift, or will.

Lands, the title to which had passed out of the United States, and that lie within the limits of a State of this Union, would, in the absence of heirs to inherit, escheat to the State in which they were situated; but lands, the title to which had not passed from the Government, but which were occupied by Indians, would, on the extinction of the Indians, or on their abandonment of the lands, escheat to the United States, even though they lie within a State, and this without any special legislation, the lands always being held by the Indians in occupancy only.

Wharton's Law Lexicon, p. 359:

Fee-simple, a freehold estate of inheritance, *absolute* and *unqualified*. * * * An *uncontrollable* power of *alienation*, whether by *deed*, *gift*, or *will*.

Kent's Commentaries, vol. 4, page 4:

Fee-simple is a pure inheritance, clear of any qualification or condition, and it gives a right of succession to all the heirs generally. * * * It is an estate of perpetuity, and confers an unlimited power of alienation, and no person is capable of having a greater estate or interest in land. Every restraint upon alienation is inconsistent with the nature of a fee-simple; and if a partial restraint be annexed to a fee, as a condition not to alien for a limited time, or not to a particular person, it ceases to be a fee-simple.

In Blackstone's Commentaries (vol. 1, book 2, p. 104) it is said:

A fee, therefore, in general signifies an estate of inheritance, being the highest and most extensive interest that a man can have in a feud; and when the term is used simply, without any adjunct, or has the adjunct of *simple* annexed to it, (as a fee-simple,) it is used in contradistinction to a fee-conditional at the common law, or a fee-tail by the statute, importing an absolute inheritance clear of any *condition*, limitation, or restriction to particular heirs, but descendable to the heirs general, whether male or female, *lineal* or *collateral*.

Webster's Dictionary:

Fee-simple. *An absolute fee or fee-simple* is land which a man holds to himself and his heirs forever. In America, where lands are not generally held of a superior, a fee or *fee-simple* is an estate in which the owner has the whole property *without any condition* annexed to the tenure.

Ohio State Reports, vol. 17, p. 439: It was held by the court that the words "to the said James Pollock, the heirs of his body, and assigns, forever," did not convey a *fee-simple* but a *fee-tail*; and did not confer on the grantees any power to convey to anybody more than they themselves had—a life estate.

As to the construction to be put upon the grant of these lands, the committee refer to the opinion of Attorney General J. S. Black, given November 22, 1858. He said:

It is well settled that all public grants of property, money, or privileges are to be construed most strictly against the grantee. Whatever is not given expressly, or very clearly implied from the words of the grant, is withheld. * * * If you let the grantees have the advantage of the ambiguity, * * * acts which were supposed to have very little in them when they passed, will expand into very large dimensions afterward. An ingenious construction will make that mischievous which was intended

to be harmless. The remedy for these evils—and they are evils to the public morals as well as to the treasury—is to let all men know that they can get nothing from the United States except what *Congress* has chosen to give them in words so plain that their sense cannot be mistaken.

REVERSION TO THE UNITED STATES.

The law of May 28, 1830, under which this "exchange" was made, (section 3, last clause,) reads:

Provided always, That such lands shall revert to the United States if the Indians become extinct or abandon the same.

The treaty of 1835 stipulates, (article 3:)

That the lands above ceded by the treaties of May 6, 1828, and February 14, 1833, including the outlet and those ceded by this treaty, meaning the neutral lands, *shall all be included in one patent executed to the Cherokee Nation of Indians by the President of the United States, according to the provisions of the act of May* 28, 1830.

The patent of 1838 contained the condition in these words:

And subject also to the condition provided by the act of Congress of the 28th of May, 1830, and which condition is, "that the lands hereby granted shall revert to the United States if the said Cherokees become extinct or abandon the same."

The conditions of reversion so carefully retained by the United States are two, to wit: *extinction* and *abandonment*.

Your committee would call particular attention to the following authorities as to what constitutes *abandonment* in such cases as the one under consideration.

Felix Grundy, Attorney General, opinion in case of Creek Indians. (Opinions, vol. 8, p. 390:)

Nothing more is necessary than to ascertain that the reservee left and removed from the land without an intention of returning and occupying it as his place of residence. My opinion is, that so soon as a voluntary abandonment and removal from the premises actually took place, from that time the right of the United States accrued and was perfect and complete; and although the register and receiver could not act until they had a knowledge of such abandonment, still the *rights of individuals might well* and *legally have their origin* to different *portions of said land, according* to *then existing laws*, or *laws which might be passed by Congress.*

Attorney General Butler (Opinions, vol. 3, p. 230) defines abandonment as "ceasing to have any direct personal connection with the use and enjoyment of the land. No judicial proceedings or actual entry on the part of the United States will be necessary to vest the estate in the United States. Whenever the estate of the Indian reservee shall have determined, the land becomes a part of the public domain. * * * * *Its liability to entry for floating claims, or for other purposes, will from that time be the same as if it had then for the first time been ceded to the United States.*"

Your committee find that on the 7th day of October, 1861, a "treaty of friendship and alliance was concluded between the Confederate States and the Cherokee Nation of Indians," and that that treaty was authorized by a "general convention of the Cherokee people."

The articles of this treaty having special application to this case are as follows:

ARTICLE 1. There shall be perpetual peace and friendship, and an alliance offensive and defensive, between the Confederate States of America and all of their States and people, and the Cherokee Nation and all the people thereof.

ART. 2. The Cherokee Nation of Indians acknowledges itself to be under the protection of the Confederate States of America, *and of no other power or sovereign whatever;* and does hereby stipulate and agree with them that it will not hereafter contract any alliance, or enter into any compact, treaty, or agreement with any individual, State, or with a foreign power; and the said Confederate States do hereby assume and accept the said protectorate, *and recognize the said Cherokee Nation as their ward;* and by the consent of said nation now here freely given, the country whereof it is proprietor in fee, as the same is hereinafter described, is annexed to the Confederate States in the same

manner and to the same extent as it was annexed to the *United States of America before that Government was dissolved*, with such modifications, however, of the terms of annexation, and upon such conditions as are hereinafter expressed, in addition to all the rights, privileges, immunities, titles, and guarantees with or in favor of the said nation under treaties made with it, and under the statutes of the United States of America.

ART. 3. The Confederate States of America, having accepted the said protectorate, hereby solemnly promise the said Cherokee Nation never to desert or to abandon it, and that under no circumstances will they permit the Northern States, or any other enemy, to overcome them and sever the Cherokees from the confederacy; but that they will, at any cost and all hazards, protect and defend them and maintain unbroken the ties created by identity of interests and institutions, and strengthened and made perpetual by this treaty.

ART. 4. The boundaries of the Cherokee country shall forever continue and remain the same as they are defined by letters patent therefor given by the United States to the Cherokee Nation on the thirty-first day of December, in the year of our Lord one thousand eight hundred and thirty-eight.

ART. 5. The Cherokee Nation hereby gives its full, free, and unqualified assent to those provisions of the act of congress of the Confederate States of America entitled "An act for the protection of certain Indian tribes," approved the 24th day of May, in the year of our Lord one thousand eight hundred and sixty-one, whereby it was declared that all *reversionary and other interest, right, title, and proprietorship* of the United States in, unto, and over the Indian country, in which that of the said Cherokee Nation is included, should pass to and vest in the Confederate States; and whereby the president of the Confederate States was authorized to take military possession and occupation of all said country.

ART. 7. None of the lands hereby guaranteed to the Cherokee Nation shall be sold, ceded, or otherwise disposed of, to any foreign nation, or to any State or government whatever; and in case any such sale, cession, or disposition should be made without the consent of the Confederate States, all the lands shall thereupon revert to the Confederate States.

ART. 40. In consideration of the common interest of the Cherokee Nation and the Confederate States, and of the protection and rights guaranteed to the said nation by this treaty, the Cherokee Nation hereby agrees that it will raise and furnish a regiment of ten companies of mounted men, with two reserve companies, if allowed, to serve in the armies of the Confederate States for twelve months; the men shall be armed by the Confederate States, receive the same pay and allowance as other mounted troops in the service, and not be moved beyond the limits of the Indian country west of Arkansas without their consent.

ART. 41. The Cherokee Nation hereby agrees to raise and furnish, at any future time, upon the requisition of the president, such number of troops for the defense of the Indian country, and of the frontier of the Confederate States, as he may fix, not out of fair proportion to the number of its population, to be employed for such terms of service as the president may determine; and such troops shall receive the same pay and allowance as the other troops of the same class in the service of the Confederate States.

ART. 47. Whereas by the treaty of the 29th day of December, A. D. 1835, the United States of America, in consideration of the sum of $500,000, part of the sum of $5,000,000 agreed by that treaty to be paid to the Cherokee Nation for the cession of their lands and possessions east of the Mississippi River, did covenant and agree to convey to the Cherokees and their descendants, by patent in fee-simple, the certain tract of land between the State of Missouri and the Osage reservation, the boundary line whereof it was provided should begin at the southeast corner of said Osage reservation and run north along the east line of the Osage lands fifty miles to the northeast corner thereof; thence east to the west line of the State of Missouri; thence with that line south fifty miles; and thence west to the place of beginning; which tract of country was estimated to contain eight hundred thousand acres of land; and whereas the same has been seized and settled upon by lawless intruders from the Northern States, and may be totally lost to the Cherokees: now, therefore, it is further hereby agreed between the parties to this treaty, that in case the said tract of country should be ultimately lost to the Cherokees by the chances of war, or the terms *of a treaty of peace or otherwise*, the Confederate States of America do assure and guarantee to the Cherokee Nation the payment therefor of the said sum of $500,000, with interest thereon, at the rate of five per cent. per annum, from the said 29th day of December, A. D. 1835; and will either procure the payment of the same by the United States, or pay the same out of their own treasury, after the restoration of peace.

ART. 48. At the request of the authorities of the Cherokee Nation, and in consideration of the *unanimity and promptness of their people in responding to the call of the Confederate States for troops*, and of their want of means to engage in any works of public utility and general benefit, or to maintain in successful operation their male and female seminaries of learning, the Confederate States do hereby agree to advance to the said Cherokee Nation, immediately after the ratification of this treaty, on account of the said sum to

be paid for the said lands mentioned in the preceding article, the sum of $150,000, to be paid to the treasurer of the nation, and appropriated in such manner as the legislature may direct; and to hold in their hands as invested for the benefit of said nation the further sum of $50,000, and to pay to the treasurer of said nation interest thereon, annually, on the first day of July in each year, at the rate of six per cent. per annum.

It will be seen by articles 47 and 48 that a sale of the Cherokee neutral lands was attempted to the Confederate States, and $150,000 agreed to be advanced as a part of the price, "on account of the said sum to be paid for said lands mentioned in the preceding article."

Your committee are clearly of the opinion that the mere voluntary cession to our public enemy would have worked a forfeiture of all the rights of the Cherokees to these lands, and that when that cession was accompanied by a *sale*, on which a large payment was to be made immediately, and when these acts were actually followed by the raising of Cherokee troops, in pursuance of stipulations in the same treaty, for the enemy, and their joining the confederate army in actual war against the United States, the last shadow of their legal rights to these lands vanished, and that all just claim by the Cherokees to the tract was forfeited, and that in every particular the abandonment was complete. And further, that the Cherokees, having by their own voluntary act *reverted* this tract, it became *unencumbered property* of the United States, subject only to the action of Congress, and that until Congress does dispose of it by law, no person can possibly acquire any right or title to any part of it, except such as has been or may be acquired under existing laws by virtue of *actual settlement*.

But if no previous abandonment had worked a reversion of these lands to the United States, such reversion would have been complete by the cession of August 11, 1866. That act of cession exhausted the power of the Cherokees in the premises, if any had remained till that date, and merged any right of occupancy the Indians might have held in the United States as the reversioner.

The title to this 800,000 acres of land has reverted to the United States, among others, for the following reasons:

1. It was given in exchange for other Indian lands in Georgia, to which the Indians held the title by occupancy only.

2. It was exchanged by treaty in accordance with the law of Congress of May 28, 1830, which only authorized exchanges.

3. The $500,000 named in the treaty was a part of the valuation of the Cherokee title to the Georgia lands, which was occupancy only.

4. The Cherokees "abandoned" the neutral lands in the treaty with the Confederate States of America, as shown above, October 7, 1861.

5. They reaffirmed that abandonment of the lands by treaty of August 11, 1866, with the United States.

6. By the treaty of August 11, 1866, article 19, it is provided that those Cherokees who choose to remain on the lands after that date will cease to belong to the nation. So their remaining on the land after that date would be no bar to the reversion.

CLAIMS OF SETTLERS UNDER PREËMPTION LAW.

Your committee will next proceed to examine the legal claims of the settlers who have located upon the Cherokee neutral lands.

The act known as the "preëmption law," which was passed by Congress on the 4th of September, 1841, gave to actual settlers possessed of the proper qualifications a right to locate upon certain lands, comprising the larger share of our public domain unencumbered by the Indian possession; and to purchase one hundred and sixty acres, or less,

within one year from the date of settlement, at $1 25 per acre. The doctrine of the monarchies had been that the "Crown" owned the public territory of a nation, and that it was to be granted or sold by the monarch, in dukedoms or principalities, to his favorites. The United States advanced to the higher position taken in the pre-emption law of 1841. For nearly thirty years that law has stood on the statute-books, entirely satisfactory to our people. Millions of American homes have been built under it. Pecuniary independence, naturally accompanied by development of patriotism and of individual character, has been the result, as a rule, of its beneficent operation. From preëmption homes went out a very large and a very important share of the brains and the muscle that saved the nation from being destroyed by the great rebellion. The people are satisfied with that law; the speculators may not be.

On the 22d day of July, 1854, Congress passed a law to organize the Territories of Kansas and Nebraska, section 12 of which reads as follows:

And be it further enacted, That all the lands to which the Indian title has been or shall be extinguished within said Territories of Kansas and Nebraska shall be subject to the operations of the preëmption act of 4th September, 1841.

On the 2d day of June, 1862, Congress passed "An act to establish a land office in Colorado, and for other purposes." The words "*and for other purposes*" are held by the custom of Congress, and also by decisions of the Supreme Court, to include all possible subjects of legislation. The first section is, in the broadest language, a general enactment, that "*all the lands belonging to the United States, to which the Indian title has been or shall be extinguished, shall be subject to the operation of the pre-emption act of 4th September*, 1841."

Section 2 of the act proceeds to establish a *local office*, under this act, *in Colorado*.

The supreme court of the District of Columbia has twice declared the first section of this law to apply all over the nation. (See decisions of that court in case of Whitney *vs.* Frisbie, August 16, 1866; and again, decision in same case, and decree entered thereon at the general term of same court, May, 1868.)

These laws stand unrepealed; their language is plain and unmistakable.

The act of July 22, 1854, is neither more nor less than a guarantee of the pre-emption right to settlers within the then Territories of Kansas and Nebraska. It is the promise of Congress to the people that such settlers should be allowed to buy their homes from the government at $1 25 per acre; and that, too, not only on the lands to which the Indian title *had been* extinguished at the date of the law; but that when the Indian title *should be* extinguished to tracts then occupied by the Indians, such lands should come under the same conditions.

The act of June 2, 1862, *extended these same provisions and conditions to all the "territory" of the nation;* and though ignored for nearly eight years by the Interior Department, its proper and universal character has been formally recognized by that Department on the 22d of March last, as evidenced by the following circular of that date, issued from the General Land Office:

[CIRCULAR.]

Instructions respecting rights of preëmption settlers on public lands.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
March 22, 1870.

Whereas by act of Congress approved 27th of March, 1854, entitled "An act for the

relief of settlers on lands reserved for railroad purposes," every settler on lands which have been, or may be, withdrawn from market in consequence of proposed railroads, and who had settled thereon prior to such withdrawal, shall be entitled to preëmption at the ordinary minimum to the lands settled on and cultivated by them; provided they shall prove up their rights according to such rules and regulations as may be prescribed by the Secretary of the Interior. And whereas the first section of the act approved June 2, 1862, (12 Stat., 413,) provides, "That all the lands belonging to the United States to which the Indian title has been or shall be extinguished, shall be subject to the operations of the preëmption act of the fourth of September, eighteen hundred and forty-one, and under the conditions, restrictions, and stipulations therein mentioned: provided, however, that when unsurveyed lands are claimed by preëmption, notice of the specific tracts claimed shall be filed within six months after the survey has been made in the field; and on failure to file such notice, or to pay for the tract claimed within twelve months from the filing of such notice, the parties claiming such land shall forfeit all right thereto: provided said notices may be filed with the surveyor general, and to be noted by him on the township plats, until other arrangements have been made for that purpose."

Therefore, in accordance with instructions from the Secretary of the Interior, it is ordered that all settlers on lands *surveyed at date of settlement*, and within the lateral limits of withdrawals for railroad purposes, where settlement was made *prior* to date of withdrawal, shall be required to file their declaratory statements within three months from the first day of June, 1870, and thereafter make proof and payment as required by law. And in all cases hereafter settlers claiming preëmption rights upon *surveyed* lands under the act of March 27, 1854, aforesaid, shall be required to file their declaratory statements and make proof and payment in like manner as other preëmptors, in conformity with the requirements of the preëmption laws of 1841 and 1843.

2d. That settlers upon *unsurveyed* lands, including those within the lateral limits of withdrawals for railroad purposes settled upon prior to withdrawal, will be required, within six months after survey in the field, (or, if surveyed before the publication of this circular, within six months from the 1st day of June, 1870, aforesaid,) to file their declaratory statements with the register of the proper land office, or with the surveyor general, where the plat of survey has not been filed with such register, and thereafter to make proof and payment for the tract within twelve months from the date of filing, as required by the act of June 2, 1862, aforesaid. And where settlers on lands *unsurveyed at date of settlement* have already filed their declaratory statements with the register of the proper land office, they will be required to make proof and payment within twelve months from the 1st day of June next, as aforesaid.

Settlers failing to comply with the requirements of this circular will be held to have forfeited their claims as preëmptors under the law.

JOS. S. WILSON, *Commissioner.*

To REGISTERS and RECEIVERS *United States Land Offices* and
SURVEYORS GENERAL *of the United States.*

WHAT IS THE LEGAL NATURE OF THE PREËMPTION RIGHT?

In Lytle *vs.* The State of Arkansas (9 Howard, 333) the court said:

The claim of preëmption is not that shadowy right which by some it is considered to be. Until sanctioned by law it has no existence as a substantive right; but when covered by law it becomes a legal right, subject to be defeated only by a failure to perform the conditions annexed to it.

It is founded in an enlightened public policy, rendered necessary by the enterprise of our citizens. The adventurous pioneer who is found in advance of our settlements encounters many hardships, and not unfrequently dangers, from savage incursions. He is generally poor, and it is fit that his enterprise should be rewarded by the privilege of purchasing the favorite spot selected by him, not to exceed one hundred and sixty acres. That this is the national feeling is shown by the course of legislation for many years.

In Delassus *vs.* The United States (9 Peters, 133) Chief Justice Marshall said:

No principle is better settled in this country than that an inchoate title to lands is property. * * * The inquiry then is whether this concession was legally made by the proper authorities, and might have been perfected into a complete title.

In Smith *vs.* The United States (10 Peters, 330) the court said:

It was never doubted by this court that property of every description in Louisiana was protected by the law of nations, the terms of the treaty, and the act of Congress, nor that in the term "property" was comprehended every species of title, inchoate or

perfect, embracing those rights which lie in contract, those which are executory, as well as those which are executed.

The supreme court of the District of Columbia, August 16, 1866, said:

The Government has granted him the option in the bargain either to go on and fulfill it until his title is perfected by the patent, *or to quit the land at his pleasure.* In the latter event the Government can suffer no damage, for it has parted with no value, and retains the title to the land. It is like a contract for the sale of land, in which the owner retains the title as security for the purchase-money.

The purchaser, unless he has given his personal contract to the contrary, may at any time abandon his improvements, and leave the property to its owner without further liability. And yet had he remained, and complied with the terms of his agreement, the owner would have been bound to him for the title, and in the meantime the purchaser had an equitable interest of which no power could deprive him without his own consent, unless taken for public use by the Government on paying of its value. * * * Under it the settler who enters upon public land, and complies with its terms, has the right by law, to demand his title from the Government, by the strict terms of a contract, and not as bounty which the Government is at liberty to grant or to withhold at its pleasure.

Its own want of either power or of disposition to take away the rights of preëmption claimants has been constantly recognized by Congress itself in its acts granting lands to railroad companies, &c.

Also, in support of positions above taken, see Fletcher *vs.* Peck, 6 Cranch; New Jersey *vs.* Wilson, 7 Cranch; United States *vs.* Fitzgerald, 15 Peters, 419; Garland *vs.* Winn, 20 How., 8; Rice *vs.* R. R. Co., 1 Black, 358; Lytle *vs.* Arkansas, 9 How., 333; Finley *vs.* Williams, 9 Cranch; McAfee *vs.* Kim, 7 S. and M. Miss. Rep., 780; Worn *vs.* Marshall, 20 How., 565; Wilcox *vs.* Jackson, 13 Peters, 498; O'Brien *vs.* Perry, 1 Black, 132; Brown *vs.* Griswold, 11 Illinois, 520; Tennett *vs.* Taylor, 9 Cranch, 43; Paulett *vs.* Clark, 9 Cranch, 292; Willot *vs.* Sanford, 10 How., 79; State of Minnesota *vs.* Batchelder, 1 Wallace, 115; Minter *vs.* Crommelin, 18 How., 87.

Also, decision of Secretary of Interior, Lester's Land Laws, page 550, December 23, 1851:

Subsequent entries, however, which have been made by preëmption, in virtue of settlements made prior to the grants, will be valid, because in those cases the right of preëmption attached from the date of the settlement, and bacame a vested right, which can be divested only by abandonment or a failure in the performance of its conditions.

SENATOR HARLAN, MAY 24, 1870, *vs.* SECRETARY HARLAN, AUGUST 30, 1866.

In support of the claims of actual settlers on the public lands, your committee feel justified in contrasting the official action of James Harlan while Secretary of the Interior, in the sale by him to the American Emigrant Company, (a corporation said to be organized under the laws of the State of Connecticut) of this 800,000 acres of land known as the Cherokee neutral lands, which was originally a part of the Osage lands, and the right of occupancy to which was purchased of them by treaty of 1825, with his opinions as stated on the floor of the Senate, on May 24, 1870, when Senate bill No. 529, providing "that the United States shall assume the absolute control and ownership of all the lands known as the Great and Little Osage reservation," in Kansas, was under consideration in that body. In reply to the speech of the Senator from Maine, (Mr. Morrill,) Mr. Harlan said:

But the honorable Senator from Maine informed the Senate that with his consent these settlers on these lands should not be permitted to purchase without competition with others one acre of land the possession of which they had acquired by wrong. He thought they were not settlers. "Settlers!" said he; "there is not a settler on these lands; they are robbers; they are trespassers; there can be no settlers until the lands are formally opened under the law for settlement and occupation!" How strangely

that must have sounded to honorable senators representing the new States here! How strangely it must have read when it met the eye of the Delegates from the Territories! How will it be understood by the inhabitants of Oregon and California? The Indian title to the land there has never been extinguished by treaty. Are there no settlers in either of those States? Are those people all land-thieves, marauders, who deserve no consideration by the Senate of the United States? You have no treaties with those Indians. Not an acre of their land has been purchased of them by the Government of the United States. How is it in New Mexico, where there are said to be over one hundred thousand white people residing to-day? Not one acre of land in that Territory has ever been purchased of the Indians by the United States, nor an acre in Arizona, nor, I believe, in Utah, and, I believe, until very recently, not an acre in Colorado, Montana, or Dakota.

Are there no settlers in these great and growing States and Territories? Are they, too, all land-thieves, who deserve no consideration? And yet you have given them consideration. You have organized for them civil governments; you have sent to them, in their territorial condition, governors and judges; you have established courts of justice, and organized, or directed them to organize, legislative assemblies. In advance of the purchase of the title to a single acre of the land from the Indians, you have authorized them to apply for admission as sovereign States of this Union. And yet they are in precisely the same condition to-day as these settlers on the Osage Indian lands, who went on in advance of the technical extinguishment of the Indian title. Are they to receive from this time forward no consideration here? Are they to be driven from their homes? Do you propose to put up their farms, their houses, humble though they may be, that shelter them and their families from the inclemency of the seasons, for sale at public outcry? Sir, you cannot find men bad enough to compete with them for title to their homes.

The proposition is totally impracticable. If the price, however, proposed in the bill, $1 25 an acre, is not enough; if you wish to charge these frontier settlers more money for their homes, to punish them for pushing on the car of civilization, amend the bill; strike out $1 25; put in two dollars, or more; but in God's name, do not put them at the mercy of land-sharks and speculators, who might be bad enough to be willing to rob the settler of the proceeds of his labor and toil. If they are trespassers, it is in a technical sense merely; morally, they are not. They have done just as their neighbors have done; just as the inhabitants of all the new States have done. They are probably no worse and no better than the average of the people found elsewhere. Ordinarily, as soon as the Indian title is extinguished, the lands are subject to settlement by preemptors, in advance of the survey, and you in your wisdom have solemnly enacted laws providing that the citizen who does so under ordinary circumstances shall have the prior right to buy his home at $1 25 an acre. This is the solemn judgment of the nation proclaimed in its statute-book, read and known of all men. But if there is any thing peculiar about these people, if they have committed any unusual oversight, make them pay smart money in an increased price for their homes; but I would not place them at the mercy of land speculators.

The proposition of the honorable Senator from Maine is incapable of execution. These people will not submit to competition in the purchase of their homes. Emigrants to the frontier will not compete with them, and outsiders will not be permitted to bid. You can provide by law for the sale at such just price as you may determine, and require them to conform to your judgment.

JOY'S PATENTS.

Your committee find that Mr. Joy has received patents for 235,139.50 acres of these lands. These patents, as has been shown, are based on an assumed conveyance by virtue of *treaties;* and being without the sanction of *law*, are simply *nullities*, and do not stand in the way of the issuing to the proper persons of *valid patents* by virtue of *act of Congress.*

In support of this position we submit the following authorities. (Opinions of Attorneys General, vol. 5, p. 7:)

It is evidently, therefore, the view of the Supreme Court that a patent issued without authority of law, or against law, is not voidable merely, but void, and being, therefore, a nullity as though it did not exist, it leaves the duty unimpaired to convey the title to the rightful owner. * * * It is an undoubted proposition that if a patent be issued without authority of law it is utterly void. Not being an act done in a court of record, there is no difficulty in the way of treating it as merely void.

2 Howard, p. 284, the court held that * * * the title of the

confirmee was made perfect by the act of confirmation, and without any patent as against the prior patent, which was simply void; and that if two patents be issued by the United States for the same land, and the first in date be obtained fraudulently, or against law, it does not carry the legal title. (See Lester's Land Laws, p. 660.)

Ross *vs.* Borland, 1 Peters, p. 656, the court held that "the second patent issued upon legal authority; the first did not; and therefore the second must prevail."

Brown *vs.* Clements, 3 Howard, p. 650, it was directly adjudged by the Supreme Court that "the second patent prevailed over the first, where the first was not legally issued."

See letter of Secretary of the Interior to the Commissioner of the General Land Office, September 29, 1859. Same to same, March 31, 1859. (Lester's Land Laws, pp. 394, 451.) See also Opinions, vol. 4, p. 558, and 14 Missouri, p. 585.

JOY'S CLAIM TO TITLE.

Mr. Joy, in his argument before the committee, February 18, 1870, (page 3, House Report 53, 2d session 41st Congress,) claims title in the Cherokees under the treaty of May 6, 1828, and amendatory treaty of February 14, 1833, and speaks of another treaty of December, 1835. This is special pleading. The facts are that the treaties of 1828 and 1833 did not mention this 800,000 acres of land at all. It does not enter the treaties until that of 1835.

Again, he should have referred the committee to the law of Congress of 1830 authorizing the exchange of lands east with the Indian tribes for land west of the Mississippi River, being the law under which the treaty of 1835 was made, and which law is specially referred to in that treaty as forming the title; and he should have informed the committee that the law of 1830 specially provides that these lands shall revert to the United States if the Indians become extinct or abandon the same, and that the patents for this land contain the same limitations, in accordance with the treaty of 1835 and the law of 1830.

The Indians could not dispose of more than they received, nor could they, under the provisions of this title, dispose of this to any other than the United States, as a disposition of their right of occupancy would work an abandonment, which, by the terms of the law of 1830, the treaty of 1835, and their patent to the land of 1838, would revert this land at once to the United States. In other words, the Indians could only occupy the lands themselves, or return the possession to the Government by a release or by default; and if they had not irretrievably defaulted it by their treaty of October 7, 1861, with the Confederate States, then our public enemy, they assuredly voluntarily released it by their treaty with the United States of August 11, 1866, and at once lost all control over it and all interest in it. The stipulated price for the release is their only claim, and that must await the action of Congress to validate it and to appropriate money for its payment. The Indians did not hold the fee, and hence could not sell it. The treaty-making power did not hold the fee, and hence could not sell it. As neither of these parties owned the land, and as neither was authorized to sell it, it is clear that they could not jointly dispose of the title, or determine the price to be paid. The United States, by its law-making power, as recognized and designated by the Constitution, alone may authorize a sale of the public domain.

The last possible shadow of title of the Cherokees had passed to the

United States by the treaty of 1866, and this treaty of 1868 was a nullity, and whatever right Joy claims from that treaty as confirmatory of his title is wholly valueless.

Let us more closely examine the duplex transaction by which this man Joy claims title to 800,000 acres of valuable public land lying in a body in a great State, and which is occupied by near eighteen thousand industrious poor people, who have settled there under the protection of the homestead and preëmption laws of Congress, to make their homes by their own industry and in which to eat their bread in the sweat of their brows. It is worth while that the American people should know who has attempted to displace them and to fasten the great wrong of capitalizing a tract of fine lands, twenty-five by fifty miles in extent, without regard to the interests of education or justice to the frontiersman, and have attempted to pass a title to this land without law, in the interest of speculators who are leeches upon the industry and prosperity of the early settlers of the country. This transaction demands both the scrutiny and the condemnation of the people of this country.

Having demonstrated that the conveyance of this tract to the Cherokees by the patent of 1838 did not confer on them a fee-simple title, it follows that all contracts and conveyances based on the assumption that they held such a title are simply *null and void.*

Their only right and power over the land was to occupy it, or relinquish the possession of it to the United States, and then it must inevitably come under the exclusive control of "Congress," and when "disposed of" must be "disposed of" by "Congress," either in accordance with laws already existing or by special acts.

The Indians could not cede to the United States in trust, as they assumed to do by article seventeen of the treaty of August 11, 1866, *title* to a tract of land to which they had only a right of *occupancy*, which was necessarily terminated by the act of cession.

They could not, as they assumed by treaty to do, appoint an officer of the United States a trustee to hold or to sell lands belonging to the United States. And the Indians and the treaty-making power of our Government together were not competent to "dispose of" this property of the United States to an individual without congressional enactment, or to cure by the second treaty, 1868, a first contract, which was itself defective for the same reasons.

The ONLY ACT *of Congress* quoted by Mr. Joy in his argument before your committee, *on which to base his title*, is found on page 73 of volume 5, United States Statutes. It is an item in an appropriation act, and reads thus:

> For the amount stipulated to be paid for the lands ceded in the first article of the treaty with the Cherokees of 29th December 1835, *deducting* the cost of the land to be provided for them west of the Mississippi, under the second article of said treaty, *four* million five hundred thousand dollars.

By no contortion of logic or proper interpretations of law could that sentence be held to do anything more than to give an implied assent to the Indian possession of the Cherokee neutral lands. It made no contract, and its provisions could as well have applied to a lease as to a *fee.*

The treaty had based its own power on the law of May 28, 1830, and provided for a patent in accordance therewith, with special reference to its proviso of limitation of title.

Congressional sanction to *such a title as these would give* had already been obtained, and it is idle to plead that a clause providing for the retention by the United States of $500,000, part of the value of a title

of occupancy in Georgia, could or did *fix or in any way affect* the character of the title of the Indians or the Government to these lands, and especially that it should have expanded the title to a fee-simple, despite the restriction of the law, treaty, and patent.

Mr. Joy quotes another law, that of July 25, 1856. (U. S. Stat., vol. 14, page 236.

By reference to this it will be seen that all settlers on any lands to be affected by it are protected under the preëmption and homestead laws up to the date of the "*withdrawal*" of such lands from market; but as no such "withdrawal" of any part of this tract has yet taken place, no railroad company could disturb any settler on this tract up to the present date.

Mr. Joy quotes section 10 as follows:

> Section 10 provides that the said Kansas and Neosho Valley Railroad Company shall have the right to negotiate with, and acquire from, any Indian nation or tribe authorized by the United States to dispose of lands for railroad purposes, and from any other nation or tribe of Indians through whose lands the said road may pass, subject to the approval of the President of the United States, &c.

The pretended purchase of the Cherokee neutral lands *was not made by any "railroad company," but by James F. Joy;* and in the supplemental treaty of June 10, 1868, *not the slightest intimation can be found that the purchase was made by, or for the benefit of, a "railroad company."* A sale to "James F. Joy" is not a sale to a "railroad company;" the contract, which is contained in the supplemental treaty, is the only evidence that would be admitted in a court as to who the purchaser was; and no assumed conveyance of the land from Joy to a railroad company can bring the original sale *to* him within the scope of that law. *If* the sale *to* Joy was *valid*, he might at any time between the date of his purchase and that of his attempt to convey it to the railroad company, (nearly or quite a year,) have made any other disposition of it he saw fit, and no person or no *company* could have hindered him.

The claim of Mr. Joy then is found to be without any other support than the assumption that a treaty can "dispose of" the landed property of the United States.

To concede this would be to take out of the hands of the House of Representatives all legislative power over the immense extent of our territory still occupied by Indians, and, in fact, over all the public domain; as treaties with foreign powers could work the same results with public territory, if sustained in this case, and would be restricted to a disposition of national limits by treaty stipulations, as France did Louisiana to us in 1803.

To hold that an Indian occupancy gives the treaty-making power a right to dispose of the public lands, while the Constitution reserves to Congress the power to dispose of them, is to say that the constitutional power of Congress operates or not, according as Indians are or are not present on lands. If this be so, then while Congress might be enacting a law their power might be interrupted by an Indian raid on lands, which is absurd.

CONTRACT OFFERED TO SETTLERS BY JOY.

Your committee are satisfied that these settlers would have no certainty of obtaining titles to their homes, if they were to accept the terms and the contracts proposed by Mr: Joy, for the following reasons:

Mr. Joy, it appears, has attempted to convey these lands to the Mis-

souri River, Fort Scott and Gulf Railroad Company, and this company has given a mortgage, or trust deed, on the lands to three capitalists.

This mortgage, or trust deed, Mr. Joy, in his plea before your committee, stated had conveyed a title. He also says:

> Having become involved in this matter in this way, and finding it necessary to raise the money to build the road, in order to save myself, if I can do it at all, this land and the road were included in an ordinary railway mortgage to secure such bonds as might be issued to be sold for the construction of the road, with a provision in the mortgage that whenever the land should be sold the trustees should realize that. Thus we could raise money on the credit of the land for the purpose of building the road. Bonds to the amount of $5,000,000 are scattered all over the United States, bought by gentlemen who knew the lands, and knowing the right and title.

CONTRACT.

Land department of the Missouri River, Fort Scott and Gulf Railroad Company.

No. ——

This agreement, made this ——— day of ———, in the year 18—, between the Missouri River, Fort Scott and Gulf Railroad Company, of the first part, and ——— ———, of the county of ——— State of ———, of the second part, witnesseth, that in consideration of the stipulations herein contained and the payments to be made, as is hereinafter specified, the first party hereby agrees to sell unto the second party the ——— of section No. ——— in township No. ——— south, of range No. ——— east of the sixth principal meridian, in the county of ———, and State of Kansas, containing, according to the United States survey, ———$_{000}$ acres, be the same more or less, for the sum of ———$_{000}$ dollars, and the said second party hath paid the sum of ———$_{000}$ dollars, being one year's interest, in advance, at seven per cent. per annum, on the purchase-money. And the said second party, in consideration of the premises, hereby agrees to pay to the first party at the land department of the Missouri River, Fort Scott and Gulf Railroad Company, at Fort Scott, Kansas, the following sums of principal and interest, at the several times named below:

When due.	Interest.		Principal.		Evidence of payment.
	Dollars.	Cts.	Dollars.	Cts.	
Due .....18..					
Due .....18..					
Due .....18..					
Due .....18..					
Due .....18..					
Due .....18..					
Due .....18..					

And it being mutually understood that the above premises are sold to said second party for improvement and cultivation, the said second party hereby further agrees and obligates ———, ——— heirs and assigns, that all improvements placed upon said premises shall remain thereon, and shall not be removed or destroyed until final payment for said land; and further that —— will punctually pay said sums of money above specified, as each of the same becomes due; and that —— will regularly and seasonably pay such taxes and assessments as may be lawfully imposed upon said premises.

In case the said second party, ——— legal representatives, or ——— assigns, shall pay the several sums of money aforesaid punctually, and at the several times above limited, and shall strictly and literally perform all and singular ——— agreements and

stipulations aforesaid, after their true tenor and intent, then the first party shall make unto the said second party, ——— heirs or assigns, (upon request at the land office of the first party, at Fort Scott, and the surrender of this contract,) a deed, conveying said premises in fee-simple, with the ordinary covenants of warranty; reserving, however, a strip of land, ONE HUNDRED AND FIFTY FEET WIDE, to be used by the first party for a right of way or other railroad purposes, where the line of the Missouri River, Fort Scott and Gulf Railroad is laid over the premises.

But in case the second party shall fail to make the payments aforesaid, or any of them, punctually and upon the strict times and terms above limited, and likewise to perform and complete all and each of ——— agreements and stipulations aforesaid, strictly and literally, without any failure and default, the times of payment being of the essence of this contract, then the party of the first part shall have the right to declare the contract null and void, and all rights and interests hereby created or then existing in favor of the said second party, or derived under this contract, shall utterly cease and determine, and the premises hereby contracted shall revert to and revest in said first party, (without any declaration of forfeiture, or act of reëntry, or without any other act by the said first party to be performed, and without any right of said second party of reclamation or compensation for moneys paid or improvements made,) as absolutely, fully, and perfectly as if this contract had never been made.

And it is further stipulated that no assignment of the premises shall be valid unless the same shall be indorsed hereon, or permanently attached hereto, and countersigned by the commissioner of the land department, (for which purpose this contract must be sent to this Department, by mail or otherwise,) and that no agreement or conditions or relations between the second party and ——— assignee, or any other person acquiring title or interest from or through ———, shall preclude the first party from the right to convey the premises to said second party, or ——— assigns, on the surrender of this agreement and the papment of the unpaid portion of the purchase-money which may be due to the first party.

In witness of which the Missouri River, Fort Scott and Gulf Railroad Company hath caused these presents, in duplicate, to be signed by the commissioner and the secretary, and countersigned by the cashier of the land department, and the second party hath hereunto set ——— name on the day and year first above written.

Countersigned.

——— ———,
Cashier.

——— ———,
Commissioner.

——— ———,
Secretary.

——— ———,
Purchaser.

Witness:

——— ———.

ASSIGNMENT.

I, ———, the within-named purchaser, for and in consideration of ——— dollars, do hereby assign and transfer all my right, title, interest, and claim in and to the ——— within described, unto ———, his heirs and assigns, forever. And I do hereby authorize the land department of the Missouri River, Fort Scott and Gulf Railroad Company to receive from him, the said ———, all unpaid balances due to said company, in part consideration for said land, and upon the final payment of all the purchase-money and a full compliance with all the requirements contained in the within agreement, to execute, or cause to be executed, to him, the said ———, his heirs and assigns, a deed for said land, instead of to me.

It is expressly understood that, in consenting to recognize this assignment, the officers of this department do not exempt the original purchaser from any of his liabilities under the contract, but to protect the rights of the assignee, provided he complies with its obligations.

No assignment is valid unless a five-cent revenue stamp is affixed.

Given under my hand and seal this ——— day of ———, A. D. 18—.

——— ———. [SEAL.]

Countersigned:

——— ———, *Commissioner.*

STATE OF ———, ——— *County, ss:*

Before me, ——— ———, in and for said county, this day personally came ——— ———, who is known to be the identical person who is described in the within agreement, and who executed the foregoing assignment, and acknowledged that he signed

sealed, and delivered the same as his free and voluntary act and deed for the use and purposes therein set forth.

Given under my hand this ——— day of ———, A. D. 18—.

——— ———

And on such an arrangement as this it is that these settlers are asked to purchase of the Missouri River, Fort Scott and Gulf Railroad Company. Not to pay cash down and receive warranty deeds, for this has been repeatedly refused them, but to enter into a contract, drawn in the most stringent style, with the most perilous conditions of forfeiture, all against the settler, and stipulating for a series of payments with interest running through a period of seven years; at the end of which time the railroad company agrees, if there has been no forfeiture, to give the purchasers deeds for their homes. If Mr. Joy had had a good title, and if the Missouri River, Fort Scott and Gulf Railroad Company was an institution that could neither change nor cease to exist, and if capitalists could do no wrong, and if all parties concerned were not human beings but angels, still this arrangement would be open to the objection of being complicated and tedious.

Your committee can only account for the fact of this contract having been entered into by any of these settlers by calling attention to the presence on these lands of a part of the Army of the United States, and that these people were induced to believe that the Government would force them to accept Mr. Joy's terms or eject them from their homes.

Certainly so miserable a contract would never be signed by sane men, except under compulsion.

CONCLUSIONS.

Your committee concludes—

1. That the Cherokee Indians held a title by occupancy only in their Georgia lands; and, hence, could convey or exchange no more than this title.

2. Congress has the sole power to dispose of the public domain; and that the Executive, with the advice and consent of the Senate, by treaty cannot do this thing.

3. That Congress passed no law authorizing a treaty passing fee-simple title to any Indian tribe to any lands whatever, and especially this tract of 800,000 acres to the Cherokees.

4. That Congress did on the 28th day of May, 1830, pass a law, providing in section 3, p. 411, U. S. Statutes, vol. 4, for *exchanging* lands west for lands east of the Mississippi River with Indian tribes, specially providing for a reversion of title to the Government.

5. That by treaty of December 29, 1835, these 800,000 acres (neutral lands) were agreed to be ceded conditionally to the Cherokees for $500,000, which was a part of the valuation of the title of occupancy surrendered by the Cherokees by the same treaty to their Georgia lands.

6. That Congress, by an appropriation act of July 2, 1836, (see vol. 5 Statutes, p. 73,) took to the Government a credit for amounts due the Cherokees for the value of the Georgia release the sum of $500,000, in exchange for this neutral land. (This statute is published as obsolete, and was referred to by Joy.)

7. That there was no other or different consideration for the 800,000 acres now in controversy than the $500,000, part of the valuation of the purchase of the title of occupancy of the Cherokees to the Georgia lands as above stated.

8. That the treaty of 1835, for the transfer to the Cherokees, by the United States, of the neutral lands, 800,000 acres for the $500,000, and

for the transfer of the Georgia lands to the United States, by the Cherokees, for $5,000,000, of which the $500,000 was a part, was between the same identical parties, namely, the United States and the Cherokee tribe or nation of Indians.

9. That the treaty of 1835, for the transfer of this neutral land, expressly conforms to the law of 1830, and hence is subject to its restrictions, provisions as to title, and limits the fee.

10. The treaty of 1835 provides for issuing a patent for the lands exchanged, and, accordingly, a patent issued for the same, December 1, 1838, containing the proviso of the law of 1830, limiting the title to the conditions of this law.

11. On the 4th day of September, 1841, Congress passed a law granting the right of preëmption to actual settlers on the public lands, with the privilege to them to pay for their homes, not exceeding 160 acres each, in one year from the date of settlement.

12. On the 22d day of July, 1854, Congress specially extended this law over Kansas and Nebraska, and provided that it should extend to the lands in those Territories to which the Indian title "had been or shall be extinguished."

13. On the 2d of June, 1862, Congress, by general law, extended the law of preëmption to all lands belonging to the United States, carrying these same provisions touching Indian title with it.

14. On the 28th day of May, 1862, Congress passed the homestead laws, for the benefit of actual settlers on the public lands.

15. On the 7th day of October, 1861, the Cherokee Indians, in their tribal capacity, entered into an alliance, offensive and defensive, with the government of the so-called "Confederate States of America," then at war with the United States, in which they agreed to sell to that government this tract of 800,000 acres of land, and to receive a payment of $150,000 thereon immediately on the confirmation of that treaty, thus abandoning the land.

16. By a treaty of August 11, 1866, with the United States, the Cherokees undertook to cede this same land in trust to the United States, and to authorize its sale for their benefit, and to direct the manner of sale.

17. That the treaty-making power is not competent, without a law of Congress authorizing it, to revive by treaty the forfeited rights of the Cherokees to the neutral lands which they lost by their abandonment of the terms under which they received it from the United States, in the sale to the Confederate States of America, the public enemy of the United States; and therefore the attempt of the treaty of 1866, in so far as it attempts to pardon the Cherokees and restore them to their original rights, is a nullity.

18. That this treaty (article 17) also provided for the cession to the United States, with the same conditions, of a tract lying along the south side of the State of Kansas, and known as the Cherokee strip, containing about ——— acres, which should be subject to the preëmption laws.

19. The conditions were two-fold: 1st. The lands were to be sold after due advertisement for sealed bids, in tracts not exceeding 160 acres to one person, and for a sum not less than $1 25 per acre; and in the 17th amended article it was provided that the Secretary is not to be prohibited from selling all the land ceded by that treaty, in a body, for not less than $1 per acre; which, with the subsequent proceedings, gives it the appearance of a preparation for the purpose of a certain sale and purchase then desired, by which, perhaps, the Indians, the Government, and the settlers were not the persons intended to be benefited.

20. The sale of the neutral lands only, and $1 per acre to the American Emigrant Company, by Harlan, is not a compliance with the provision of the treaty permitting the Secretary to sell "all the lands herein ceded in a body" at that rate; and is certainly void, as the reduced price was evidently one condition of a sale of all qualities of the land, and prompt time, as the fund was to be placed on interest for the benefit of the Indians, after deducting expenses, and was without notice or competition.

21. The revocation of Harlan's sale to the American Emigrant Company by his successor, Mr. Browning, was correct, and should have been unconditionally carried out, as it was intended at the time, in accordance with Attorney General Stanbery's opinion.

22. The subsequent sale to Joy, without law, and without official notice, by Mr. Browning, October 9, 1867, was as much a violation of law and justice as the sale by Harlan to the American Emigrant Company; and is open to the same provision.

23. Treaties with Indian tribes within our territory and jurisdiction, and without a law of Congress directly authorizing them, are nullities, and not within the meaning of the sixth article of the Constitution of the United States.

24. The sale in trust to the United States, under treaty of 1866, and the confirmatory treaty of 1868, are for that purpose mere nullities; are simple proofs of abandonment.

25. The coöperation of the Indians in the treaties of 1866 and 1868, authorizing or confirming the sales of Harlan or Browning, adds nothing to the power of the Secretary of the Interior, who acted without law, and the sales are unconditionally void from the beginning, and should be so declared by opening those lands to settlement under the preëmption and homestead laws.

26. Those laws were in operation over this land so far that the treaty-making power admitted the lawful claims of one thousand and thirty-one familes as actual settlers on the land.

27. It being true that the preëmption laws covered that land prior to the treaty of 1866, it could not be displaced by a treaty which is less than the law. The law is still in force, and the treaty is invalid, and Joy takes nothing by his contract under it.

28. There was no public, civil, or military necessity for this extraordinary exercise of power. The treaty of August 11, 1866, under which this sale was made, attempts, by simply declaring the treaty with the Confederate States void, to restore to the Cherokees this land which it was properly assumed by both parties they, by their treaty with the Confederate States of America, had lost. The same treaty undertook to cede this, with other lands, to the United States in trust, to be sold for the benefit of the Cherokees, no debt to be incurred for the land in any event until sold. There was not only no necessity but there was no excuse for the sale. Its only purpose seems to have been to *capitalize* this land in the hands of speculators. It was done without authority and without necessity and is void.

29. The Cherokees and the United States both understood that the Cherokees had forfeited this land, and the treaty of 1866 first undertook to restore it, and then to cede it in trust to the United States. But meantime the preëmption laws extended over it, and the treaty was void and of no effect.

30. That the fact that laws on the statute of the nation guaranteed the right of preëmption when the Indian title should be extinguished was

sufficient to warrant settlers in locating on these lands as they did, not only with the *consent* of the Indians, but under their direct encouragement, and that the moral obligation of the Government to these settlers is strengthened by the fact that their location there was made under assurances from Presidents and Senators of the United States.

PETITION OF THE SETTLERS ON THE NEUTRAL LANDS.

We, the undersigned, residents of the "Cherokee neutral lands," in the State of Kansas, would respectfully represent that the settlement of these lands has been made under assurances from President Buchanan before the war, and President Johnson since the war, that the Indian title would be extinguished by the United States, and that we would get titles to our homes from the Government under the laws of Congress; that our own Senators have always written to us in such a manner as to encourage the settlement of this country, and to assure us of titles from the Government at Government rates; that the Cherokees had ever since the war earnestly encouraged settlers to locate here, and that the General Government has exercised complete jurisdiction here ever since the war, and the State of Kansas since the treaty with the Cherokees of August 11, 1866; and further, that there are now about thirty-five hundred families who have located here, expecting to make permanent homes for themselves; that most of us have expended all of our means in necessary expenses for living, and in improving our claims; that two-thirds of us have been soldiers in the Union Army; that our settlement of the neutral lands has been made under unusual difficulties, which we have borne, trusting the Government to protect us in the rights accorded to settlers of the new parts of our country by the preëmption and homestead laws; and further, that the title to this tract has never in any instance passed from the United States by any act of Congress.

We therefore respectfully petition the Congress of the United States to declare by law that all assumed sales or conveyances of this tract purporting to have been made by virtue of any treaty or treaties are null and void, and to declare the "Cherokee neutral land" public land of the United States, to be opened to settlement under preëmption and homestead laws.

Your committee find the above petition signed by about one thousand seven hundred of the settlers on these lands. A very large majority of them are shown to have been soldiers of the Union Army. The petition also shows that these people have been at a very heavy expense to maintain themselves during the most difficult periods of a pioneer settlement; and the labor and means invested by them in improving their claims, as well as the fact that the petition shows this population to consist of families, is sufficient proof that the occupants intended to make permanent homes upon them.

The appeal of so many American citizens is not, in any case, to be lightly regarded. When such a number of people, and more especially of the defenders of our country, feel themselves outraged, it is *prima facie* evidence of a wrong attempted upon them.

Mr. Story, in his work on the Constitution, (vol. 1, p. 341,) says:

> To establish justice, must forever become the great end of every wise government; and even in arbitrary governments it must be, to a great extent, practiced at least in respect to private persons, as the only security against rebellion, private vengeance, and popular cruelty. But in a free government it lies at the very basis of all its institutions. Without justice being freely, fully, and impartially administered, neither our persons, nor our rights, nor our property can be protected. And if these, or either of them, are regulated by no certain laws, and are subject to no certain tenure, and are redressed, when violated, by no certain remedies, society fails of all its value, and men may as well return to a state of savage and barbarous independence.

Neither the American people, the Government of the United States, nor either or any political party, can afford to refuse or to delay *justice* to these people.

That the Government of the United States is bound in law and by every consideration of justice, of good faith, and of sound policy, to see that every *bona fide* settler on the Cherokee neutral lands is allowed to obtain a perfect title to his home, under the laws of the United States;

and that it is the duty of the United States to see that the patents issued to James F. Joy be *canceled* without expense to the rightful claimants, and that the transactions between him and the Secretary of the Interior for the purchase of this land be delared void from the beginning.

Your committee have carefully considered the bill to dispose of the Cherokee neutral lands in Kansas to actual settlers only, (H. R. 1074,) and do not hesitate to pronounce it just to the Indians, just to the settlers, and just to Mr. Joy, and do earnestly recommend its passage at the earliest practicable day.

Your committee might have been pardoned for passing over in silence the fact that United States soldiers have been stationed on the neutral land for nearly a year, if it had not been mentioned by Mr, Joy, in his argument, and also thrust before the public, through the newspapers and otherwise.

The founders of our Government saw a great danger in a too free or an improper use of the military power, and provided for its restraint in the Constitution and by acts of Congress.

Constitution of the United States, article 4, section 4:

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive, (when the legislature cannot be convened,) against domestic violence.

United States Statutes at Large, volume 1, page 424, (act of February 28, 1798:)

SEC. 2. * * * * And in case of an insurrection in any State against the government thereof, it shall be lawful for the President of the United States, on application of the legislature of such State, or of the executive, (when the legislature cannot be convened,) to call forth such number of the militia of such State or States as may be necessary to suppress such combinations, and to cause the laws to be duly executed, and the use of the militia so called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the then next session of Congress.

SEC. 3. *Provided always, and be it further enacted*, That whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, by proclamation, command such insurgents to disperse and retire to their respective abodes within a limited time.

United States Statutes at Large, volume 2, page 443, (act of March 3, 1807 :)

Be it enacted, &c,, That in all cases of insurrection, or obstruction to the laws, either of the United States, or of any individual State or Territory, when it is lawful for the President of the United States to call forth the militia for the purpose of suppressing insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ for the same purposes such part of the land or naval forces of the United States as shall be judged necessary, *having first observed all the prerequisites of the law in that respect.*

Your committee learn from the sworn testimony taken by a committee of the Kansas legislature—the governor of the State being among the witnesses—that no attempt was made to convene the legislature of Kansas; that the governor made the request for troops *on his own responsibility* before even issuing a proclamation, or attempting in any way whatever to use the constitutional power of the State. In fact, your committee are assured, from the testimony above alluded to, that there has never been any necessity for the presence of troops to aid in the *services of process* or the *administration of law* on the neutral land; and it is a strange fact that these troops have remained—as may be seen from answer of the President, given a few days since, to resolution of inquiry on the subject by the House of Representatives—not *thirty days*, but *one hundred and seventy-five days* since the commencement of the present *session of Congress;* and that they have been *furnished* with *quarters* by the *Missouri River, Fort Scott and Gulf Railroad Company.*

The officer in command testifies before the committee of the Kansas legislature that the force he commands has not been called on to assist the civil officers or the courts in any way whatever.

Your committee need not suggest the danger of allowing *governors of States*, without observing a *single "prerequisite of the law,"* to call in the *moral support* of the Army of the United States to aid railroad companies in their contest with the people. (See opinion of Attorney General Cushing, on application of governor of California, given July 19, 1856.)

DEPARTMENT OF THE INTERIOR,
Washington, D. C., May 31, 1870.

SIR: In reply to your request of this date I have the honor to inclose herewith copies of the following papers now on file in this Department, viz:

First. Letters-patent to the Cherokee domain, dated 31st day of December, 1838.

Second. The agreement between Hon. James Harlan, former Secretary of the Interior, and the American Emigrant Company, for the sale of the Cherokee neutral lands in Kansas.

Third. The assignment of the American Emigrant Company to James F. Joy.

I am, sir, very respectfully, your obedient servant,

J. D. COX,
Secretary.

Hon. J. P. C. SHANKS,
Of the Committee on Indian Affairs,
House of Representatives.

Letters-patent to Cherokee domain.

THE UNITED STATES OF AMERICA.

To all whom these presents shall come, greeting:

Whereas by certain treaties made by the United States of America with the Cherokee nation of Indians, of the 6th of May, one thousand eight hundred and twenty-eight, the 14th of February, one thousand eight hundred and thirty-three, and the 29th of December, one thousand eight hundred and thirty-five, it was stipulated and agreed, on the part of the United States, that in consideration of the promises mentioned in the said treaties, respectively, the United States should guarantee, secure, and convey, by patent to the said Cherokee Nation, certain tracts of land; the descriptions of which tracts and the terms and conditions on which they were to be conveyed and set forth in the second and third articles of the treaty of the 29th of December, one thousand eight hundred and thirty-five, in the words following, that is to say:

"ART. 2. Whereas, by the treaty of May 6, one thousand eight hundred and twenty-eight, and the supplementary treaty thereto of February 14, one thousand eight hundred and thirty-three, with the Cherokees west of the Mississippi, the United States guaranteed and secured to be conveyed by patent to the Cherokee Nation of Indians the following tract of country: beginning at a point on the old western territorial line of Arkansas Territory, being twenty-five miles north from the point where the territorial line crosses the Arkansas River; thence running from said north point south on the said territorial line, where the said territorial line crosses Verdigris River; thence down said Verdigris River to the Arkansas; thence down said Arkansas to a point where a stone is placed, opposite the east or lower banks of Grand River, at its junction with the Arkansas; thence running south forty-four degrees west one mile; thence in a straight line to a point four miles northerly from the mouth of the North Fork of the Canadian; thence along the said four-mile line to the Canadian; thence down the the Canadian to the Arkansas; thence down the Arkansas to a point on the Arkansas where the eastern Choctaw boundary strikes said river, and running thence with the

western line of Arkansas Territory as now defined, to the southwest corner of Missouri; thence along the Western Missouri line to the land assigned the Senecas; thence on the south line of the Senecas to the Grand River; thence up said Grand River as far as the south line of the Osage reservation, extended if necessary; thence up and between said south Osage line, extended west if necessary, and a line drawn due west from the point of beginning to a certain distance west, at which a line running north and south from said Osage line to said due west line will make seven millions of acres within the whole described boundaries.

"In addition to the seven millions of acres of land thus provided for and bounded, the United States further guarantee to the Cherokee Nation a perpetual outlet west and a free and unmolested use of all the country west of the western boundary of said seven millions of acres as far west as the sovereignty of the United States and their right of soil extend: *Provided, however*, That if the saline or salt plain on the Western Prairie shall fall within said limits prescribed for said outlet, the right is reserved to the United States to permit other tribes of red men to get salt on said plain in common with the Cherokees, and letters-patent shall be issued by the United States as soon as practicable for the land hereby guaranteed. And whereas it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation on their removal west of the Mississippi, the United States, in consideration of the sum of five hundred thousand dollars, therefore hereby covenant and agree to convey to the said Indians and their descendants, by patents in fee-simple, the following additional tract of land situated between the west line of the State of Missouri and the Osage reservation, beginning at the southeast corner of the same, and runs north along the east line of the Osage lands fifty miles to the northeast corner thereof; and thence east to the west line of the State of Missouri; thence with said line south fifty miles; thence west to the place of beginning; estimated to contain eight hundred thousand acres of land; but it is expressly understood that if any of the lands assigned the Quapaws shall fall within the aforesaid bounds, the same shall be reserved and excepted out of the lands above granted, and a pro rata reduction shall be made in the price to be allowed to the United States for the same by the Cherokees.

"ART. 3. The United States also agree that the lands above ceded by the treaty of February fourteen, one thousand eight hundred and thirty-three, including the outlet and those ceded by this treaty, shall all be included in one, executed to the Cherokee Nation of Indians by the President of the United States according to the provisions of the act of May twenty-eight, one thousand eight hundred and thirty.

"It is, however, agreed that the military reservation at Fort Gibson shall be held by the United States; but should the United States abandon said post, and have no further use for the same, it shall revert to the Cherokee Nation. The United States shall always have the right to make and establish such post and military roads and posts in any part of the Cherokee country as they may deem proper for the interest and protection of the same, and the free use of as much land, timber, fuel, and materials of all kinds for the construction and the support of the same as may be necessary; provided, that if the private rights of individuals are interfered with, a just compensation therefore shall be made."

And whereas the United States have caused the said tract of seven millions of acres, together with the said perpetual outlet, to be surveyed in one tract, the boundaries whereof are as follows: Beginning at a mound of rocks four feet square at base and four and a half feet high, from which another mound of rocks bears south one chain, and another mound of rocks bears west one chain, on what has been denominated the old western territorial line of Arkansas Territory, twenty-five miles north of Arkansas River; thence south twenty-one miles and twenty-eight chains to a post on the northeast bank of the Verdigris River, from which a hackberry, fifteen inches in diameter, bears south sixty-one degrees thirty-one minutes east forty-three links, marked C. H. L., and a cottonwood, forty-two inches diameter, bears south twenty-one degrees fifteen minutes east fifty links, marked C. R. K. L.; thence down the Verdigris River, on the northeast bank, with its meanders, to the junction of Verdigris and Arkansas Rivers; thence from the lower bank of Verdigris River on the north bank of Arkansas River, south forty-four degrees thirteen minutes east fifty-seven chains to a post on the south bank of the Arkansas River, opposite the eastern bank of Neosho or Grand River, at its junction with the Arkansas, from which a red oak, thirty-six inches diameter, bears south seventy-five degrees forty-five minutes west twenty-four links, and a hickory, twenty-four inches diameter, bears south eighty-nine degrees east four links; thence south fifty-three degrees west one mile, to a post, from which a rock bears north fifty-three degrees east fifty links, and a rock bears south eighteen degrees eighteen minutes west fifty links; thence south eighteen degrees eighteen minutes west thirty-three miles twenty-eight chains and eighty links to a rock, from which another rock bears north eighteen degrees eighteen minutes east fifty links, and another rock bears south fifty links; thence south four miles to a post on the lower bank of the

North Fork of Canadian River, at its junction with Canadian River, from which a cottonwood twenty-four inches diameter bears north eighteen degrees east forty links, and a cottonwood fifteen inches diameter bears south nine degrees east fourteen links; thence down the Canadian River, on its north bank to its junction with Arkansas River; thence down the main channel of Arkansas River to the western boundary of the State of Arkansas, at the northern extremity of the eastern boundary of the lands of the Choctaws, on the south bank of Arkansas River, four chains and fifty-four links east of Fort Smith; thence north seven degrees twenty-five minutes west, with the western boundary of the State of Arkansas, seventy-six miles sixty-four chains and fifty links to the southwest corner of the State of Missouri; thence north on the western boundary of the State of Missouri, eight miles forty-nine chains and fifty-links, to the north bank of Cowskin or Seneca River, at a mound six feet square at base and five feet high, in which is a post marked on the south side cor. N. Ch. Ld.; thence west on the southern boundary of the lands of the Senecas, eleven miles and forty-eight chains, to a post on the east bank of Neosho River, from which a maple eighteen inches in diameter bears south thirty-one degrees east seventy-two links; thence up Neosho River, with its meanders, on the east bank to the southern boundary of the Osage lands, thirty-six chains and fifty links west of the southeast corner of the lands of the Osages, witnessed by a mound of rocks on the west bank of Neosho River; thence west on the southern boundary of the Osage lands to the line dividing the territory of the United States from that of Mexico, two hundred and eighty-eight miles thirteen chains and sixty-six links to a mound of earth six feet square at base, and five and a half feet high, in which is deposited a cylinder of charcoal twelve inches long, four inches diameter; thence south along the line of the territory of the United States and of Mexico, sixty miles and twelve chains, to a mound of earth six feet square at base and five and a half feet high, in which is deposited a cylinder of charcoal eighteen inches long and three inches diameter; thence east along the northern boundary of the Creek lands, two hundred and seventy-three miles fifty-five chains and sixty-six links, to the beginning, containing within the survey thirteen million five hundred and seventy-four thousand one hundred and thirty-five acres and fourteen-hundredths of an acre:

And whereas the United States have also caused the said tract of eight hundred thousand acres to be surveyed, and have ascertained the boundaries thereof to be as follows: Beginning at the southeast corner of Osage lands, described by a rock, from which a red oak, thirty inches diameter, bears south twenty-seven degrees east seventy-six links, and a burr-oak, thirty inches diameter, bears south fifty-nine degrees west one chain; and another burr-oak, thirty inches diameter, bears north eight degrees west one chain and thirty-seven links; and another burr-oak, forty inches diameter, bears north thirty degrees west one chain and eighty-one links, and running east twenty-five miles, to a rock on the western line of the State of Missouri, from which a post-oak, ten inches diameter, bears north forty-eight degrees thirty minutes east four chains; and a post-oak, twelve inches diameter, bears south sixty-two degrees east five chains; thence north with the western boundary of the State of Missouri, fifty miles, to a mound of earth five feet square at base, and four and a half feet high; thence west twenty-five miles to the northeast corner of the lands of the Osages, described by a mound of earth six feet square at base, and five feet high; thence south along the eastern boundary of the Osage lands, fifty miles to the beginning, containing eight hundred thousand acres:

Therefore, in execution of the agreements and stipulation contained in the said several treaties, the United States have given and granted, and by these presents do give and grant, unto the said Cherokee Nation the two tracts of land so surveyed and hereinbefore described, containing in the whole fourteen millions three hundred and seventy-four thousand one hundred and thirty-five acres and fourteen-hundredths of an acre: To have and to hold the same, together with all the rights, privileges, and appurtenances thereunto belonging, to the said Cherokee Nation forever, subject, however, to the rights of the United States to permit other tribes of red men to get salt on the salt plain on the Western Prairie, referred [to] in the second article of the treaty of the twenty-ninth of December, one thousand eight hundred and thirty-five; which salt plain has been ascertained to be within the limits prescribed for the outlet agreed to be granted by said article, and subject, also, to all the other rights reserved to the United States, in and by the articles hereinbefore recited, to the extent and in the manner in which the said rights are so reserved, and subject also to the condition provided by the act of Congress of the twenty-eighth of May, one thousand eight hundred and thirty, referred to in the above-recited third article, and which condition is that the lands hereby granted shall revert to the United States if the said Cherokee Nation becomes extinct or abandon the same.

In testimony whereof I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the thirty-first day of December,

in the year of our Lord one thousand eight hundred and thirty-eight, and of the independence of the United States the sixty-third.

[L. S.] M. VAN BUREN.

By the President:

H. M. GARLAND,

Recorder of the General Land Office.

This agreement, made this 30th day of August, A. D. 1866, by and between James Harlan, Secretary of the Interior, on behalf of the United States, of the one part, and the American Emigrant Company, a corporation chartered and existing under the laws of the State of Connecticut, of the other part—

Witnesseth: That the said Harlan agrees to sell, and hereby doth sell, to the said company all that tract of land known as the "Cherokee neutral lands," in the State of Kansas, containing (800,000) eight hundred thousand acres, more or less, with the limitations and restrictions set forth in the seventeenth article of a treaty between the United States and said Cherokee Indians, ratified on the 11th day of August, A. D. 1866, as amended by the United States Senate, with all the beneficial interest therein, at the rate of one dollar per acre in lawful money of the United States, to be paid to the Secretary of the Interior in trust for said Indians as hereinafter set forth, viz: Twenty-five thousand dollars on the execution hereof, twenty-five thousand dollars on the approval of the surveys of said lands by the Commissioner of the General Land Office, and twenty-five thousand dollars on the 30th day of August, 1867; seventy-five thousand dollars on the 30th day of August, 1868, and seventy-five thousand dollars on the 30th day of August, 1869; seventy-five thousand dollars on the 30th day of August, A. D. 1870, and one hundred thousand dollars per annum thence afterward until the whole shall be paid; each of said several sums to draw interest at the rate of five per cent. per annum from the date of the approval of the surveys aforesaid.

The said American Emigrant Company agree to pay the said several sums of money, with interest thereon as aforesaid, to the said Secretary in Washington, in lawful money of the United States as the same shall become due; the said interest on each and all deferred payments to be paid annually on the first day of July. The United States agree to cause said lands to be surveyed as public lands are usually surveyed in one year from the date hereof, and on the payment of fifty thousand dollars to set apart for said company a quantity of said lands in one body in as compact form as practicable, extending directly across said tract of land from east to west and containing a number of acres equal to the number of dollars then paid, and from time to time to convey the same by patent to said company, or its assigns, whenever afterward requested so to do, in such quantities by legal subdivisions as said company shall indicate; and on the payment of each additional installment, with interest as herein stipulated, to set apart for said company an additional tract of land in compact form, where said company may request, but extending directly across the said neutral lands from east to west, containing a number of acres equal to the number of dollars of principal thus paid, and to convey the same to said company or its assigns as hereinbefore described; and so on from time to time until the whole shall be paid; and no conveyance of any part of said lands shall be made until the same shall be paid for as provided in this agreement; but said company may make payments at earlier periods than those indicated, or pay the whole, principal and interest, and receive titles of tracts of land accordingly, if they shall so elect.

In witness whereof said Harlan has hereto affixed his name and the seal of the Department of the Interior of the United States, and the said Emigrant Company has also, by Franklin Chamberlin, a director of said company, thereto lawfully authorized by vote of said company, (copy whereof is hereto annexed,) and affixed the name and seal of said company the day and year first above written.

Executed in presence of—

W. PENN CLARKE.

JAMES HARLAN,

Secretary of the Interior.

[SEAL.]

AMERICAN EMIGRANT COMPANY,

By F. CHAMBERLIN,

Director and Attorney in fact.

HARTFORD, CONNECTICUT, *June* 6, *A. D.* 1868.

For value received, the American Emigrant Company, a corporation chartered and existing under the laws of the State of Connecticut, do hereby assign and transfer unto James F. Joy, of the city of Detroit, Michigan, all the right, title, claim, or interests which the said American Emigrant Company has in or to a certain contract made and entered into on the 30th day of August, eighteen hundred and sixty-six, with James Harlan, Secretary of the Interior, on behalf of the United States, for the sale of the Cherokee neutral lands, and do transfer to said James F. Joy the credit and benefit of

the twenty-five thousand dollars which was paid to the Secretary of the Interior in trust for said Indians at the execution of said contract on the 30th day of August, eighteen hundred and sixty-six, and to be applied as a portion of the seventy-five thousand dollars named in article first of the modifications in the supplemental article to a treaty dated April 27, eighteen hundred and sixty-eight, signed by N. G. Taylor, commissioner, and others.

In witness whereof the American Emigrant Company has hereto, by the hand of George M. Bartholomew, president of said company, thereto duly authorized, duly affixed its name and seal the date and year first above written.

[SEAL.] THE AMERICAN EMIGRANT COMPANY,
By GEO. M. BARTHOLOMEW,
President.

Witness:
J. B. GRINNELL.

[U. S. revenue five-cent stamp.]

RESOLVE incorporating the American Emigrant Company. [General Assembly, May session, A. D. 1863.]

Resolved by this assembly, SECTION 1, That Andrew G. Hammond, Francis Gillette, John Hooker, Franklin Chamberlin, and Henry K. W. Welch, all of the city of Hartford, in this State; Samuel P. Lyman, of the city and State of New York; and Ferdinand C. D. McKay, James C. Savery, and Tallmadge E. Brown, all of the city of Des Moines, in the State of Iowa; and their successors and assigns, be, and they are hereby, made a corporation, under the name of the American Emigrant Company, for the purpose of procuring and assisting emigrants from foreign countries to settle in the United States, and especially in the Western States and Territories of the same; with power to purchase lands and dispose of the same for actual settlement, where there is nothing in the laws of the States or Territories where such lands shall be situated that shall forbid such purchase and holding, or where license shall be obtained from any such States or Territories authorizing such purchase and holding; and with all the usual corporate powers necessary and proper to carry out the objects of the corporation.

SEC. 2. The capital stock of said company shall not exceed one million of dollars, and shall amount to one hundred and eighty thousand dollars before said company shall commence operations. The capital shall be divided into shares of one hundred dollars each, which shall be transferrable in writing in such mode as the by-laws of the company shall prescribe.

SEC. 3. The company shall have power to enact by-laws, not inconsistent with the provisions of this charter, nor with the laws of this State or the United States, prescribing the mode of electing its officers and their duties, the number of directors, the time and place of the annual meetings, the manner of calling special meetings, the mode of transferring the stock of the company, and generally with regard to the manner of conducting the business of the company.

SEC. 4. The officers of the company shall consist of a president, vice-president, treasurer, and secretary, and a board of directors, who shall have the usual powers of such officers.

SEC. 5. At all meetings of the company the stockholders shall vote by shares, and any stockholder not present may vote upon his stock by proxy, the authority in such case to be given in such manner as shall be prescribed by the by-laws.

SEC. 6. The first meeting of the company shall be holden at the Exchange Bank, in the city of Hartford, on the first Monday in July, 1863, at 2 o'clock in the afternoon, at which meeting the officers of the company shall be elected, who shall hold office until the next annual meeting.

SEC. 7. The directors of the company shall, within four months after the first day of January in each year, lodge in the office of the secretary of this State a certificate, signed and sworn to by the secretary of the company, or by two of the directors, stating, so nearly as can be ascertained, the amount and general character of the assets of the company and the amount of its liabilities; and in case such certificate shall not be so made and lodged, the directors of the company, for the time being, shall be personally liable for all debts of the company contracted during the time of such neglect.

SEC. 8. This act shall take effect from its passage, and may be altered, amended, or repealed at the pleasure of the general assembly.

RESOLUTION amending the charter of the American Emigrant Company. [General Assembly, May session, A. D. 1865.]

Resolved by this general assembly, SECTION 1. That the American Emigrant Company, incorporated by resolution of the general assembly, at its session in May, A. D. 1863, shall have power, in addition to the powers conferred by the original charter, to make contracts for the chartering of steamships and other vessels for the transportation of emigrants; to purchase, own, and run such vessels for such purpose; to deal in passenger tickets for the foreign and inland transportation of emigrants by land and water;

to buy and sell foreign bills of exchange; to take charge of, dispatch, and deliver goods transmitted between this and other countries; and to act as agent for the sale of lands in all parts of the country to emigrants, settlers, and others.

SEC. 2. Said company shall also have power to make contracts for improvements upon lands held by them for sale to emigrants, and to buy and hold sheep and other stock, for the purpose of selling or letting the same to emigrants and other settlers.

At a meeting of the directors of the American Emigrant Company, held at the office of the company in New York, on the 28th day of August, 1866—present, Messrs. Harris, Chamberlin, Williams, Savery, and Hooker—*voted*, That F. Chamberlin, esq., one of the directors of the American Emigrant Company, be, and he hereby is, authorized to negotiate and execute, in the name and behalf of the company, a contract with the United States Government for the purchase of the Cherokee neutral lands, in the State of Kansas, at such price per acre, and payable upon such terms, as may be agreed upon.

A true copy of the original vote. Attest:

JOHN HOOKER, *Secretary.*

[5-cent revenue stamp.]

We recommend that the bill do pass.

J. P. C. SHANKS,
A. H. BAILEY,
W. MUNGEN,
A Minority of the Committee.

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41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 13.

ARLINGTON PROPERTY AND NATIONAL CEMETERIES.

[To accompany bill H. R. No. 2715.]

JANUARY 13, 1871.—Ordered to be printed and recommitted to the Committee on Military Affairs.

Mr. STOUGHTON, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, in pursuance of the resolution of the House of Representatives of March 17, 1870, relating to the title of the United States Government to the Arlington property, and other grounds occupied as cemeteries for Union soldiers who died during the war for the suppression of the rebellion, have the honor to submit the following report:

During the progress of actual hostilities but little attention could be paid to the graves of the soldiers of the republic. Great care was, however, taken to mark not only the graves of the Union dead, but also those of the enemy who died within our lines. Soon after the surrender of the confederate armies in the field a general system of military cemeteries was commenced, and placed, by the Secretary of War, under the supervision of the Quartermaster General. These cemeteries were located at convenient points throughout the United States. In the Eastern and Middle States the burials have been made in civil cemeteries, and the same course has generally been pursued in the Western States. In the Southern States the cemeteries are owned by the Government, and these, together with a limited number in the Western States, are under the immediate supervision of the War Department. It is believed that they have been arranged in a becoming and appropriate manner—the graves marked with headboards painted white and lettered in black, giving, whenever possible, the name, rank, and regiment of the soldier, and the date of his death.

From the records of the War Department it appears that the whole number of interments in all of the cemeteries is 307,225, and that the actual expenditures of the Government have been, up to March 12, 1870, $3,112,209. The following list comprises those cemeteries the title of which has become vested in the Government of the United States, as shown by the records of the Quartermaster General's office:

National Cemeteries in possession of the United States Government.

Running No.	Name of cemetery.	Name of prior owner.	Name of present owner.	Date of deed to United States.	Number of acres.	Remarks.
1	Green Mount Cemetery, Vt	Town of Montpelier, Vt	United States	March 28, 1866	Lot No. 324	Donated.
2	Beverly Cemetery, N. J	Joseph Weyman	do	Aug. 24, 1864	1 acre	Do.
3	Whitehall Cemetery, Bristol, Pa	George Randall	do	Aug. 30, 1864	1 acre	Purchased.
4	Lebanon Cemetery, Philadelphia, Pa	J. C. White	do	July 23, 1867	56 lots	Do.
5	Finn's Point Cemetery, N. J	United States	do			Military reservation.
6	Pea Patch Island, Del	United States	do			Do.
7	Point Lookout Cemetery, Md	Logan O. Smith	do	June 30, 1868	7 acres	Purchased by appraisement.
8	United States Military Asylum, D. C	United States	do			Military reservation.
9	Arlington Cemetery, Va	Robert E. Lee	do	Sept. 25, 1866		Purchased at tax sales.
10	Rural Cemetery, Chester, Pa	J. P. Eyre	do	Feb. 20, 1866	2 lots, (6,400 sq. feet)	Donated.
11	Odd Fellows' Cemetery, Philadelphia, Pa	H. Hopkins	do	April 27, 1868	1 lot	Do.
12	Culpeper Court House, Va	E. B. Hill and wife	do	May 10, 1867	6 acres	Purchased by appraisement.
13	Hampton, Va	William E. Wood	do	July 19, 1867	6° 3′ 29″	Do.
14	Richmond, Va	William Slater and wife	do	July 29, 1867	3 acres	Do.
15	City Point, Va	E. Comer	do	Jan. 25, 1868	0. 89 acre	Purchased.
16	Yorktown, Va	Frederick W. Power	do	March 10, 1868	2. 72 acres	Purchased by appraisement.
17	Glendale, Va	Lucy E. Nelson and others	do	May 20, 1868	2. 13 acres	Do.
18	Seven Pines, Va	Richard Hilliard	do	April 24, 1867	1. 3 acre	Do.
19	Fredericksburg, Va	Dougl. H. Gordon and wife	do	Nov. 5, 1868	12. 005 acres	Purchased.
20	Poplar Grove, Petersburg, Va	John Flowers	do	April 3, 1868	8. 13 acres	Do.
21	Wilmington, N. C	Isaac D. Ryttenberg	do	Feb. 10, 1867	5 acres	Do.
22	Staunton, Va	Nicholas K. Trout and others	do	Sept. 30, 1868	1. 1463 acre	Do.
23	Newbern, N. C	William P. Moore and wife	do	March 13, 1869	7. 589 acres	Do.
24	Beaufort, S. C	State of South Carolina	do	Feb. 10, 1863	31 acres	Military reservation.
25	Rose Hill, Columbia, Tenn	John Baird	do	May —, 1866		Donated.
26	Marietta Cemetery, Ga	Henry G. Cole and Georgia Cole his wife	do	July 31, 1866	20. 01 acres	Do.
27	Montgomery Cemetery, Ala	W. L. Coleman, mayor, &c	do	July 14, 1866		Do.
28	Mobile Cemetery, Ala	City of Mobile, Ala	do		2 lots	Do.
29	Barrancas Cemetery, Fla	United States	do			Military reservation.
30	Corinth Cemetery, Miss	Walker, White, and Vance	do	Feb. 1, 1868	20 acres	Purchased by appraisement.
31	Natchez Cemetery, Miss	Margaret Case, T. D. Purnell, and others	do	July 31, 1867	11. 07 acres	Do.
32	Vicksburg Cemetery, Miss	Alva H. Jayne and wife	do	Aug. 27, 1866	40 acres	Do.
33	Little Rock Cemetery, Ark	City of Little Rock, Ark	do	April 9, 1868	9. 1 acres	Donated.
34	Pine Bluff Cemetery, Ark	Martha C. Allis	do	March 27, 1867	3 acres	Purchased.
35	Fayetteville Cemetery, Ark	Stephen L. Stone and wife	do		3. 248 acres	Do.
36	Fayetteville Cemetery, Ark	David Walker	do	May 20, 1867	1. 741 acre	Do.
37	Baton Rouge Cemetery, La	Pierre Baron and Miss Simonia Buena	do	Oct. 16, 1868	7 acres	Do.
38	Chalmette Cemetery, New Orleans, La	City of New Orleans, La	do	May 26, 1868	13. 6 acres	Do.
39	Port Hudson Cemetery, La	J. H. Gibbons	do	Aug. 17, 1869	8 acres	Do.
40	San Antonio Cemetery, Tex	W. C. A. Thielepape, mayor, &c	do	Nov. 15, 1867	1. 9 acre	Do.
41	Brownsville Cemetery, Tex	United States	do			Military reservation.

42	Nashville Cemetery, Tenn	M. B. Howell, master in chancery	do	July 3, 1866	49 acres, 90 poles	Purchased at sheriff's sale.
43	Fort Donelson Cemetery, Tenn	James P. Flood	do	April 23, 1867	15.34 acres	Purchased.
44	Memphis Cemetery, Tenn	William Sides and others	do	Feb. 20, 1867		Do.
45	Memphis Cemetery, Tenn	A. Alston	do	April 8, 1867		Do.
46	Memphis Cemetery, Tenn	Coleman Boyd	do	May 23, 1868		Do.
47	Stone's River Cemetery, Tenn	James M. Tompkins	do	Aug. 10, 1868	8 acres, 105 poles	Do.
48	Stone's River Cemetery, Tenn	Benjamin Lillard	do	Aug. 10, 1868	7 acres, 69 poles	Do.
49	Chattanooga Cemetery, Tenn	Joseph Ruohs and others	do	Feb. 29, 1868		Appropriated.
50	Knoxville Cemetery, Tenn	John Dameron	do	June 10, 1867	10 acres	Do.
51	Shiloh, Pittsburg Landing, Tenn	Heirs of Th. B. Stubbs	do		10.05 acres	
52	Cave Hill, Louisville, Ky	J. Everett	do	July 23, 1863	42,114 square feet	Purchased.
53	Lexington Cemetery, Ky	Lexington Cemetery Association	do	July 1, 1867		Do.
54	Danville Cemetery, Ky	Town of Danville, Ky	do	July —, 1867	18 lots	Do.
55	Lebanon Cemetery, Ky	James C. McElroy	do	April 6, 1867	2 acres	Do.
56	Mill Springs, Ky	William H. Logan and wife	do	July 5, 1867		Donated.
57	Frankfort Cemetery, Ky	Frankfort Cemetery Company	do	Jan. 4, 1868	9 lots	Purchased.
58	Camp Nelson Cemetery, Ky	Mary Scott	do		7 acres, 1 quarter, 3 poles	Do.
59	Madison Cemetery, Wis	C. W. Keys, mayor, &c	do	June 18, 1866		Do.
60	Prairie du Chien Cemetery, Wis	J. Lockwood	do	June 18, 1866		Do.
61	Oakwoods Cemetery, Chicago, Ill	J. G. Scammon, president	do	April 25, 1866	18,340 square feet	Do.
62	Crown Hill Cemetery, Indianapolis, Ind.	J. M. Ray, president	do	Aug. 27, 1867	Section 10	Donated.
63	New Albany Cemetery, Ind	Charles and Georgiana Bouman	do	Dec. 15, 1862	5.46 acres	Purchased.
64	Alton Cemetery, Ill	Thomas Dunford and wife	do	Oct. 15, 1867	0.44 acre	Do.
65	Mound City Cemetery, Racine, Wis	City of Racine, Wis	do	May 22, 1868	2 lots	Do.
66	Jefferson City Cemetery, Mo	Israel B. Reed and wife	do	Dec. 7, 1867	2 acres	Do.
67	Springfield Cemetery, Mo	N. T. Chaires and wife	do	June 2, 1868	5 acres	Donated.
68	Springfield Cemetery, Mo	R. B. Owen, mayor, &c	do	Aug. 16, 1867	5 acres	Purchased.
69	Davenport Cemetery, Iowa	B. B. Woodward, president	do	June 26, 1866		Donated.
70	Keokuk Cemetery, Iowa	W. Patterson, mayor, &c	do	Aug. 28, 1866		Do.
71	Fort Scott Cemetery, Kans	Fort Scott Town Company	do	Oct. 16, 1868	28 rods	Purchased.
72	Battle Ground Cemetery, D. C	James Mulloy	do	July 20, 1868		Do.
73	Hampton Cemetery, Va	George Whipple and wife	do	Oct. 21, 1868	47.490 square feet	Do.
74	Richmond Cemetery, Va	W. Slater and Ann B. Brown	do	July 10, 1868	5 acres	Do.
75	Fort Harrison Cemetery, Va	Alpheus W. Childrey	do	March 26, 1869	0.462 acre	Do.

The cemeteries at Gettysburg, Pennsylvania, and Antietam, Maryland, do not appear in this list, for the reason that they are governed by boards of trustees, and have not yet been transferred to the General Government.

The national cemetery at Andersonville is also omitted. The Government has not yet been able to obtain the record title from the former owner upon reasonable terms. It embraces about forty-three acres of land, worth, in its original state, from three to five dollars per acre. Over twenty-five thousand dollars have been expended in improving and decorating the grounds. It was originally established by the rebel authorities for the burial of the Union prisoners confined in the prison pen near Andersonville. The interments at this place number 13,717 bodies, most of which were victims of a systematic barbarity without a parallel in the annals of civilized warfare.

The Arlington Cemetery, three miles from the city of Washington, is situated on what is known as the Arlington estate, the property for many years of the late George Washington Park Custis, who bequeathed it to Custis Lee, the oldest son of his daughter, the wife of General Robert E. Lee, of the rebel army. Custis Lee was also a rebel officer. The property was in the possession of the insurgents until our Army crossed the Potomac early in the war, when it was taken possession of by the Union troops. It was subsequently appropriated to the use of the Government as a cemetery for Union soldiers and the interments now number 15,207. It is estimated that the Government has expended $231,000 in its improvement. During the rebellion the estate was sold for arrearages of taxes, and the United States became the purchaser.

It is to be observed, however, that, like the cemeteries at Chattanooga and Knoxville, it was appropriated by the United States for the necessary purpose of the burial of the nation's dead during actual hostilities. Such an appropriation rests solidly, it is believed, upon the right of conquest; and even if no war had existed it would be an exercise of the right of eminent domain. From its very nature it is also permanent and lasting.

The title acquired at the tax sale of the Arlington estate is, perhaps, cumulative, but the ownership of the Government does not depend upon its validity. That the conqueror has a right to take so much of the conquered territory as may be necessary for cemeteries, forts, and arsenals is too clear to admit of controversy. This right is fully recognized by all writers on international law. (Grotius, book 3, chap. 6, sec. 1 and 11; Vattel, 364; Wheaton, 419.) The law of nations, indeed, recognizes the right of *postliminium*, or of the right of return, on the coming into power again of the nation to which the property originally belonged. Grotius, book 3, chap. 9, says: "Among things recoverable by postliminy the first to be considered are lands. It is true, (saith *Pomponeus*,) the enemy being beaten out of the lands which they had seized on, the right of them returns to the former owner; but the enemy must be understood then to be driven out from the time wherein it is plainly evident that they cannot return." The land may also revert to the original owner when it is no longer required for the use of the state; but in case of a cemetery, it is evident that such a time can never come. The object for which it was taken is as lasting as time, and utterly precludes any possibility of any reversion.

The act of Congress of February 22, 1867, entitled "An act to establish and protect national cemeteries," makes ample provisions for the maintenance and protection of national cemeteries, and also authorizes the Secretary of War to purchase and take any real estate that may, i

his judgment, be necessary for establishing cemeteries for the burial of the soldiers of the republic. The act also provides that the Secretary of War, or the owner or owners of the real estate so appropriated, may make application to any district or circuit court within any State or district where the same is situated, for an appraisement of the property so taken, and the interest of any claimant thereto.

It would, therefore, seem that no further legislation is necessary to enable the Government to perfect any questionable title. The committee, however, recommend the passage of the accompanying bill, in order that all questions concerning the future action of the Government may be settled and determined.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 14.

POLLY W. COTTON.

[To accompany bill H. R. No. 2718.]

JANUARY 14, 1871.—Ordered to be printed.

Mr. NEGLEY, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, to whom was referred for investigation the claim of Mrs. Polly W. Cotton, widow of Wayne W. Cotton, captain Company G, Seventh regiment Tennessee volunteers, beg leave respectfully to submit the following report:

It appears upon examination that the petitioner is the widow of Wayne W. Cotton, who served as a captain in the Seventh Tennessee infantry, but was never commissioned, nor were other officers in like circumstances.

It further appears that said W. W. Cotton was taken prisoner by the enemy in 1862, and was afterwards exchanged as a captain and rejoined his command in December of the same year.

It further appears that he remained on duty as captain with his regiment until he was ordered to Scott County, Tennessee, to recruit the regiment, and two days afterwards was taken sick of small-pox and died.

It further appears that the petitioner is now drawing a pension as the widow of a private, but your committee are clearly of the opinion that she is entitled to a pension as the widow of a captain.

Your committee therefore, firmly believe that the claim is just in every particular, and earnestly recommend that the bill be at once passed for the full amount of said claim.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 15.

ROBERT P. CHOWDEN.

[To accompany bill H. R. No. 2719.]

JANUARY 14, 1871.—Ordered to be printed.

Mr. NEGLEY, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, to whom was referred for investigation the claim of Robert P. Chowden, late assistant surgeon Third Tennessee mounted infantry, beg leave respectfully to submit the following report:

It appears, upon examination, that on or about August 5, 1864, Dr. R. P. Chowden was appointed assistant surgeon of said Third regiment Tennessee mounted infantry.

It further appears that the petitioner did faithfully and honestly perform his duties as such to the 20th day of December, 1864, when the said Third regiment Tennessee mounted infantry was mustered out of the service to the date November 30, 1864.

It further appears that the petitioner, owing to misunderstanding and great irregularities in the organization, had never been commissioned or mustered as assistant surgeon; and, therefore, the pay and allowances due him for his services as above stated have never been paid.

Your committee, therefore, believe that the petitioner, having rendered in good faith the services alleged, and having done nothing to forfeit his pay and allowances, recommend that a bill be passed at once for the full amount of said claim.

O

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 16.

A. V. RICHARDS.

[To accompany bill H. R. No. 2720.]

JANUARY 14, 1871.—Ordered to be printed.

Mr. NEGLEY, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, to whom was referred for investigation the claim of A. V. Richards, late lieutenant and signal officer United States Army, beg leave respectfully to submit the following report:

It appears that A. V. Richards passed the board of examination, and on or about February, 1864, was recommended by said board to promotion as commissioned officer.

It further appears that the petitioner was assigned to duty as second lieutenant on or about March 22, 1864, and was commissioned as such on May 10, 1865.

It further appears that the petitioner has rendered distinguished services as second lieutenant from the 22d of March, 1864, to the 10th May 1865, without receiving any compensation but that of an enlisted man, and that this resulted from no fault or error of the petitioner, but from the clerical defect in the commission, that it was not dated from the day he was recommended and assigned for duty as lieutenant.

Your committee therefore believe that the claim is just, and recommend that the accompanying bill be at once passed for his relief.

C

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 17.

BOYDEN vs. SHOBER.

JANUARY 16, 1871.—Laid on the table and ordered to be printed.

Mr. MCCRARY, from the Committee of Elections, made the following

REPORT.

The Committee of Elections have had under consideration the case above mentioned, and have directed me to submit the following report:

The following are the grounds of contest alleged by contestant in his notice of contest:

"1. That the election for Representative in Congress held in said district on the 3d day of November, 1868, was void, for want of a compliance with the law of North Carolina. First, in this: that the said law required that at each election precinct in the said district, there should be furnished and opened boxes separate and distinct from the boxes furnished and opened for deposit of ballots for candidates for presidential electors, whereas no separate and distinct boxes for the deposit of votes for the election of members of the House of Representatives were furnished and opened at more than some five or six precincts in the said sixth congressional district of North Carolina, but, on the contrary, the ballots by which you are supposed to have been elected were written or printed on the same slip of paper as the names of the candidates for presidential electors, and were deposited in the boxes furnished and opened for the reception of the ballots for the election of presidential electors. And for the further reason, that the said supposed election, it is insisted, was illegal and void in this: that the law of North Carolina prescribing the mode of conducting and declaring the results of the said congressional election requires the sheriffs of the several counties composing the said sixth congressional district of North Carolina, after having canvassed and ascertained the number of legal votes polled in their several respective counties, to meet at the county seat of Iredell County on a day now past, and there to canvass and ascertain the number of ballots polled in their respective counties the several candidates had received, and who had received the highest number of said votes, (if any one candidate had received such number,) and to give such candidate a certificate of his election; but if no one candidate had received the highest number of votes, but that two or more candidates had received the same and the highest number of votes polled, that in that event the said sheriffs should select between those having the same and the highest number of votes, and to give such candidate a certificate of his election; whereas no such meeting of the sheriffs of several counties composing the said district has been had, nor has there been by the said sheriffs any comparison of the votes polled in their several respective counties composing the said sixth con-

gressional district, nor has any certificate of election been given by the said sheriffs to any one of the candidates voted for at the said election, and there is no person or officer in North Carolina now authorized to canvass and compare the said polls nor to give a certificate of election. And it is insisted that the said supposed election is void for the further reason that the law required that separate judges and inspectors of the said congressional election should have been appointed to hold the said congressional election for each precinct in the said district, which was not done."

2. Fraud in attempting to mislead voters by means of a forged circular, purporting to come from the chairman of the national republican executive committee, by means of which voters were misled.

3. Intimidation and threats by which many persons who would have voted for contestant were deterred from voting.

4. Fraud practiced upon voters who could not read, by cutting off of the republican ticket the names of the republican candidates, and pasting on the names of the democratic candidates, and thus fraudulently inducing illiterate voters to vote against contestant contrary to their wishes and intention.

5. That the contestee was, at the time of his election, ineligible, and unable to take the test oath, having held the office of member of the legislature of North Carolina under the so-called confederate government and thus given aid and comfort to the rebellion.

The sitting member admitted his inability to take the test oath, and did not offer to qualify until after Congress had passed an act to relieve him from disability. (See Private Laws, second session forty-first Congress, page 32.) The passage of this act, and the resolution of the House directing contestee to be sworn into office, disposes of the question of eligibility.

There is not sufficient proof to sustain either the second, third, or fourth grounds of contest. That a few persons were intimidated, and some others defrauded by spurious tickets and a forged circular, is more than probable; but there is no proof to connect contestee with any of these things, and, besides, the evidence wholly fails to show that a sufficient number of votes were affected by these means to change the result. We are left, therefore, to the consideration of the first ground of contest, viz: That the election was wholly void by reason of a failure to comply with the statutory provisions concerning the manner of conducting the election.

It is said that the law of North Carolina, rightly construed, required that two ballot-boxes should have been kept at each poll, and that all ballots for member of Congress should have been deposited in one, and all ballots for electors for President and Vice-President in the other.

There seems to be some doubt as to the true construction of the statute of North Carolina, but assuming that the construction contended for by contestant is correct, we are of opinion that the statute is directory only, and that the failure to provide two ballot-boxes, and the deposit of all the ballots in one box, did not render the election void in the absence of fraud. If the ballots were freely cast, if they were honestly and fairly counted, and correctly returned, we should be unwilling to hold that a mere mistake of the election officers as to whether the ballots should go into one box or two, should be allowed to defeat the will of the majority.

It is claimed that the certificate of election was not issued to contestee by competent authority; that it should have been issued by the sheriffs of the several counties comprising the district, and not by the governor. The law upon this subject is not cited in the record, and the point is not

pressed. Indeed, it has been rendered immaterial by the action of the House in accepting the credentials of contestee and ordering him to be sworn into office thereon. We may remark, however, that the failure or refusal of the proper officer to issue a certificate of election would only render it necessary for the House to go back to the returns and poll-books and ascertain, if possible, from these, or from any competent and sufficient evidence, who was actually elected, and award the seat accordingly.

We are of opinion, therefore, that the contestant has failed to sustain the points made by him in his notice of contest, with the exception of the fifth point, which was sustained by the proof, but which was rendered immaterial by the act of Congress relieving contestee from his disability.

Your committee are of opinion that the contestant has prosecuted this contest in good faith and with reasonable cause, and that under the practice of the House in similar cases he is entitled to compensation for the expenses incurred by him.

We therefore recommend the adoption of the accompanying resolutions:

Resolved, That Nathaniel Boyden is not entitled to a seat in this House as a Representative from the sixth district of North Carolina.

Resolved, That Francis E. Shober is entitled to retain his seat in this House as a Representative from said district.

Resolved, That there be paid to Nathaniel Boyden, out of the contingent fund of the House, the sum of one thousand dollars in full for his expenses in contesting the seat of Hon. Francis E. Shober as a Representative from the said sixth district of North Carolina.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 18.

MAIL STEAMSHIP SERVICE IN THE GULF OF MEXICO.

[To accompany bill H. R. No. 1955.]

JANUARY 17, 1871.—Ordered to be printed and recommitted to the Committee on the Causes of the Reduction of American Tonnage.

Mr. WELLS, from the Select Committee on the Causes of the Reduction of American Tonnage, made the following

REPORT:

The special committee of the House on the causes of the decline of American commerce and the remedies therefor, have recommended the granting of Government aid by way of postages on mails, and by subsidies, so as to insure the establishment of lines of American ocean steamers to foreign ports, thus securing to our people the profits of the trade so created.

In view of this general recommendation the committee believe that the proposed establishment of a line of steamers between the port of New Orleans and the Gulf ports of the Republic of Mexico must not only result in a vast increase of our commerce, but as a direct and necessary step to the cultivation of those friendly political relations that should subsist between ourselves and our sister republic, and necessary to the maintenance of our power and control on this continent.

The policy of Great Britain, and the results of a judicious system of aiding her lines of ocean steam communication, has been generally adverted to by the chairman of the committee in his report of last session. We now call the special attention of the House to the consequences of this aid in our intercourse with Mexico.

In 1868 [?] Señor Tejada, minister of the Mexican treasury, in his report estimated the foreign commerce of Mexico at $54,000,000, of which over three-fifths were with Great Britain and controlled by British steamers, while but about one-seventh of the amount was with the United States.

We have no reason to think that this proportion has changed, as the statistics of the two countries show about the same relative proportion of exports to Mexico, while her export trade is almost exclusively carried by foreign vessels.

In 1864 the exports from Vera Cruz, as reported by the American consul, amounted to nearly $11,000,000, of which only one-twentieth was to the United States; and in 1868, from the same port, they amounted to $6,300,000, of which only one-tenth was to the United States. All this trade is done principally by Great Britain, over four thousand miles distant from Mexico, and by steamers consuming fifty-six days in the round trip, while, at the same time, the port of New Orleans is within three and one-half days of Vera Cruz, and within thirteen days of Europe.

With the temporary aid of the Government your committee believe that in a short period the American ports could be made the distributing

points for Mexican commerce, and her specie and passengers destined for Europe would select the speedier route, via New Orleans and New York.

So important has become the South and Central American trade that France, imitating Great Britain, now maintains magnificent steamer lines to all their principal ports, and we witness the humiliating sight of a vast commerce passing through our waters and by our very doors to enrich foreign countries. As long as this policy of Government aid is pursued by Great Britain and France, no successful competition can be maintained here unless our Government, equally generous, will place our business interests on such a footing that we can combat for the supremacy, or at least a fair division. Mexico has in vain appealed to the United States to adopt a more liberal policy. In 1857 she passed a law giving, for ten years, a subsidy of $120,000 per annum for a similar project to the one now under consideration. No successful legislation here was accomplished, although the Senate of the United States, by a vote, gave similar aid; but the amendment to the bill then pending was lost in the House. In 1870 she again passed a law giving limited aid to a line from New Orleans, ($750 per trip,) unimportant in itself but manifesting her still good will to the United States. It is now within our power to respond to these friendly offers and thus cement the postal, commercial, and political relations of the two countries. Your committee also believe that the amount of postal aid will, during the first year, be more than fully returned by increased revenue, and that at the expiration of this contract the additional annual revenue will be equal to the entire amount expended upon the line.

No people on earth as well as those of the United States so fully understand the vast wealth developed and created by railroad lines. The analogy is perfect as to ocean routes. They are the railroads of the ocean, making the world pay tribute to us and creating vast markets for our products and manufactures. We give millions to the one; shall we hesitate at a few thousands to the latter? It is not the province of your committee to advert to the political relations of the two countries, but all will readily understand the increased power and control that more intimate communication will give us, hastening the time when Mexico, developed, will pour out her lavish tropical products, and the great Mississippi Valley and fertile Northwest find there, and in the countries further south, the reliable and certain markets for their cereals, and New England a steady demand for her manufactures.

The line under consideration will form a part of the merchant marine, upon which, in time of public danger, the country can draw to add to her naval strength. Your committee have only alluded in general terms to the result of this enterprise, but they trust have indicated enough to draw to it the serious consideration of the House. They avail themselves of the privilege of laying before the House the statistics of the amount of trade for the last twenty years with our West Indian and Spanish American neighbors, showing the vast wealth to be annually earned in freights alone, should we become able to establish our carrying supremacy. In no possible way can we reduce the annual balance of trade against us except by bringing these countries in close contact, and through quicker and cheap markets develop the natural advantage of our proximity, substituting our own steamers for the wealthy steam lines of European countries. Physical laws have determined this commerce whenever we think proper to use the advantages we possess. Our southern neighbors raise products almost exclusively tropical. Their tobacco, sugar, and coffee are as necessary to us as our manufac-

tures, machinery, and flour should be to them. These can be made so by a judicious application of aid, developing our natural commercial advantages. In fact, the whole of the American Archipelago, and the countries adjacent thereto, can be made as much our home markets as are the States for each other.

The commercial prize, for the possession of which we hold so many favorable conditions, is of a magnitude that will surprise those who have not carefully examined the subject. Taking the Gulf of Mexico as the geographical unit, and grouping together only the trade of the islands thereof and of the countries having a maritime front or outlet on it, we have the following results:

EXHIBIT A.

Tabular statement of the trade of the United States with the countries named, from 1850 *to* 1859.

Countries.	Imports.		Exports.		Totals.
	In American vessels.	In foreign vessels.	In American vessels.	In foreign vessels.	
Mexico	$25,571,834	$8,903,499	$23,972,002	$5,250,467	$63,697,802
Cuba and Porto Rico	248,689,714	16,367,019	100,169,956	3,247,489	368,474,178
British West Indies, Honduras, and Guiana	15,387,383	6,254,620	44,416,605	15,007,100	81,065,708
French West Indies	775,389	729,284	4,788,065	6,489,832	12,782,570
Danish West Indies	2,060,780	540,157	9,086,790	2,114,288	13,812,015
Hayti and San Domingo	19,825,834	2,067,226	18,906,241	2,697,938	43,497,239
Central America	4,955,600	319,089	3,282,362	281,989	8,839,040
New Granada and Venezuela	42,267,670	6,003,615	26,939,814	1,153,603	76,364,702
Total	359,124,093	41,184,769	231,561,855	36,913,433	668,784,148

EXHIBIT B.

Tabular statement of the trade of the United States with the countries named, from 1860 *to* 1869.

Countries.	Imports.		Exports.		Totals.
	American vessels.	Foreign vessels.	American vessels.	Foreign vessels.	
Mexico	$36,370,374	$20,121,820	$33,874,206	$37,556,550	$127,922,950
Cuba and Porto Rico	286,820,075	122,366,584	130,297,712	52,499,002	591,983,473
British West Indies, Honduras, and Guiana	15,586,767	23,376,990	38,478,198	54,844,683	132,286,738
French West Indies	1,169,167	2,060,457	6,612,615	6,419,084	16,261,423
Danish West Indies	2,115,146	2,221,728	6,152,669	6,870,963	19,360,606
Hayti and San Domingo	8,214,391	7,238,388	16,983,268	18,766,956	51,203,903
Central America	2,787,888	2,796,050	2,719,870	1,581,709	9,885,317
New Granada and Venezuela	42,308,606	16,836,202	36,882,978	13,210,571	109,238,357
Total	395,372,414	197,018,219	272,000,716	191,749,518	1,056,140,867

An examination of the foregoing tables shows not only the extent and growth of our inter-American commerce, but it also shows the rapid decline of our carrying trade. For example, it appears that from 1850 to 1859 American vessels carried goods to the value of—

Imports	$359,124,093
Exports	231,561,853
A total of	590,685,946

During the same period foreign vessels carried goods to the value of—

Imports	$41,184,769
Exports	36,913,433
A total of	78,098,202

This left for that decade a balance to our credit, so far as the carrying trade was concerned, of $512,587,744. Take the late decade, from 1860 to 1869, and the balance in transportation is heavy against us. The account stands as follows: American vessels carried goods to the value of—

Imports	$395,372,414
Exports	272,000,716
A total of	667,373,130

This gives for the American carrier an increase of only $66,687,204. During the same period foreign vessels carried goods to value of—

Imports	$197,018,219
Exports	191,749,518
A total of	388,767,737

The total increase of trade for the last decade has been $387,356,719, of which amount the foreign ship-owner has had the transportation of all but $1,411,018, thus showing an increased handling of values on their part of $309,258,517.

If we examine further we shall find that the balance of trade against us amounts, from 1850 to 1859, to	$132,643,576
In the next period, from 1860 to 1869, it is	128,640,399
Or an actual decrease in the last ten years	4,003,177

Taking the large increase of the total trade into consideration, and the proportion on the export side of the ledger is still more favorable. Yet, as hasbeen shown, all this increase furnishes profits to the foreign carrier, and not to that merchant marine of which we have heretofore been so proud.

Something more than the cost of ship-building, the changes in naval architecture, the rates of wages, or the depression in maritime interests caused by the rebellion are necessary to account for this rapid and astounding transfer of a business so profitable and lying so conveniently to our hands. That something is found, in the opinion of your committee, in the great development of the British and French steam commercial marine, more especially in American waters, a development which has been stimulated and is sustained by a liberal system of subsidy. The merest tyro in commercial affairs comprehends instantly how trade is created by the regular arrival of steamers at stated periods. It needs no elaborate inquiry to establish this, and one of the most potent causes of the transfer of our inter-American carrying trade to English, French, and German bottoms (principally the former) is seen in the fol-

lowing facts relative to the annual subsidies paid by Great Britain to her transatlantic lines:

To and from United States, (Inman,) weekly	$175,000
To and from United States, (Cunard,) semi-weekly	350,000
To and from Halifax, Bermuda, and St. Thomas, (Cunard,) monthly	95,000
To and from Great Britain and North America	620,000
To and from England and the West Indies, (royal mail)	$864,570
To and from St. Thomas, Porto Rico, and Havana	6,000
To and from St. Kitts, Nevis, and Mont Senat	2,450
Total	873,020
To and from Panama and west coast of South America, (Pacific Steam Navigation Company)	$91,250
To and from England to Brazil, (royal mail)	$167,500
Making a total of direct subsidies	$1,751,770

In addition to these eight subsidized lines, employing a fleet of about 75 vessels, with a burden of 150,000 at least, there is one other British line—West India and Pacific Steamship Company—entering the Mexican Gulf and making a monthly circuit of its principal points. It receives heavy postal rates, inland as well as sea. To and from South American Atlantic ports there are three other English lines, receiving similar postal rates as the second West Indian line. The lowest estimate of the amount paid the Transatlantic and other Anglo-American lines carrying English mails is set down at about $600,000, which gives a total of subsidy and aid to that branch of their commerce of at least $2,351,770.

France sustains an increasing transatlantic commerce in the same way. The French Transatlantic Company and the Messageries run lines to North, Central, and South America. The first company runs regularly two lines into the Gulf of Mexico, making a regular circuit and touching at the principal islands and the Mexican ports, in addition to the regular New York steamers. They receive a subsidy of $1,000,000, with all the postage on mails carried by them. The South American service, which is conducted by the Messageries Company, cost nearly or quite as much as the Transatlantic. It may be fairly estimated that European subsidies paid to their American steam lines will reach an aggregate of not less than $4,500,000. The effect of this policy, so far as Great Britain is concerned, is at once evident. Since 1850 her steam tonnage has increased 1,300 per cent., while her sailing tonnage has increased only 70 per cent. Her merchants and ship-owners are doing to-day six-tenths of that trade which by every natural law belongs to us. These facts and results are full of instruction. They point the road by which we can greatly aid the recovery of our commercial prestige. The passage of the bill now reported, the committee believe, would be a long step in that direction.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 19.

NORTHWESTERN BOUNDARY COMMISSION.

[To accompany H. Res. No. 464.]

JANUARY 14, 1871.—Ordered to be printed.

Mr. SWANN, from the Committee on Foreign Affairs, made the following

REPORT.

The Committee on Foreign Affairs, to whom was referred that portion of the President's message relating to the northwestern boundary, beg leave to report as follows:

During the spring of the past year a military commission; under Major General Sykes, United States Army, and Captain Head, was ordered by Major General Hancock to locate the line of the forty-ninth parallel by a series of solar and lunar observations, with a view to the new post and military reservation proposed to be established by the United States. This survey, fixing the international boundary, throws that line, if correct, upwards of 4,600 feet north of the one hitherto recognized, and the Hudson Bay post at Pembina within the territory of the United States.

So soon as this fact was discovered, the collector of the custom-house at Pembina addressed a communication to the Secretary of the Treasury, dated June 23, 1870, asking instructions as to which of these lines should be recognized by him in the discharge of his official duties.

On the 13th day of August, 1870, the acting Secretary of State addressed a communication to the Treasury Department, informing that Department that no joint action had been taken by the United States and Great Britain for marking upon the surface of the ground that portion of the boundary along the forty-ninth parallel, which extends from the Lake of the Woods to the Rocky Mountains, and suggesting that no proceedings be adopted by the custom-house authorities which would disturb the existing condition of things on the border until the British government could be informed of the discovery which had been made by the officers of the Engineer Corps.

On the 15th of August, 1870, the acting Secretary of State transmitted a copy of his letter to the Treasury Department to Mr. Motley, and requested him to inform the British government of the discovery which had been made by the engineer officers of the United States in regard to the true location of the boundary, as ascertained by the usual scientific method of determining such matters, which was accordingly done in a letter to Earl Granville, dated October 17, 1870.

On the 4th of November, 1870, Sir Edward Thornton, in a letter to the acting Secretary of State, says:

> Whether the post which was erected last spring is on the forty-ninth parallel or not can easily be verified; but in the meantime it would be very desirable that the small

force now in that neighborhood should remain there for the protection of persons and the security of the mails. The only shelter, however, which they can find is in the Hudson Bay Company's fort. The Governor General has therefore forwarded a request to the Canadian government that I would confer with the Secretary of State as to the expediency of allowing the boundary line which was run by Captain Pope to be considered as the boundary for the present, until the real boundary is ascertained and finally settled, so that the Hudson Bay post may be used as a shelter during the winter; for they consider that it is in the interest of the inhabitants on both sides of the line that order should be preserved on the frontier, which result can best be attained by a body of troops of both nations being stationed in its vicinity.

Such being the state of facts touching this recent discovery, the President of the United States deems it important that this part of the boundary line be definitely fixed by a joint commission of the two governments, in which this committee fully concur.

In order to facilitate the early action of Congress in disposing of this subject, a detailed estimate of the expense of a joint commission was prepared by the Bureau of Engineers, and submitted by the Secretary of War in a communication to Mr. Fish, dated November 25, 1870.

The committee recommend the adoption of the accompanying joint resolution.

O

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 20.

JOHN L. THOMAS, JR.

[To accompany H. Res. No. 471.]

JANUARY 27, 1871.—Ordered to be printed and recommitted to the Committee of Ways and Means.

Mr. MAYNARD, from the Committee of Ways and Means, made the following

REPORT.

The Committee of Ways and Means, to whom was referred the petition and accompanying papers of John L. Thomas, jr., collector of the port of Baltimore, for relief, beg leave to report:

On the 1st of May, 1869, John L. Thomas, jr., was appointed collector of customs for the port of Baltimore, and entered upon the duties of his office. On taking charge of his office he found one Richard N. Bowerman acting as special deputy collector, and who, as such, had general supervision of the custom-house. This man, Bowerman, had been appointed by Mr. Thomas's predecessor, and had held the office for some four years prior to Mr. Thomas coming into office.

As soon as the collector had opportunity to discover the workings of the system at that time prevailing at said port, (the collector acting in the duplex capacity of collector and designated depositary,) he became satisfied that it was defective and liable to great abuse, and, setting himself at work to correct the same, he addressed to the Secretary of the Treasury a letter, which is inclosed in the following communication:

TREASURY DEPARTMENT,
Office of the Secretary, March 26, 1870.

SIR: During the last year my attention has been frequently called to the fact that the business of Baltimore was rapidly increasing, and that the necessity existed for the establishment of the office of assistant treasurer there as an independent office. At present the public moneys are deposited with the collector, who holds and disburses the same.

I inclose a copy of a letter received from the collector of that port, in which he sets forth the reasons for establishing the office of assistant treasurer. Accompanying this is a statement of the receipts and payments by him during the fiscal year ending June 30, 1869.

I concur in the views presented by the collector, and respectfully recommend the establishment of the office of assistant treasurer at Baltimore. Should this recommendation meet the approval of the committee to which it may be referred, the Department will, if desired, furnish a draught of a bill.

I am, very respectfully, &c.,

GEO. S. BOUTWELL, *Secretary.*

Hon. JAMES G. BLAINE,
Speaker House of Representatives.

CUSTOM-HOUSE, BALTIMORE,
Collector's Office, March 9, 1870.

MY DEAR SIR: Soon after the assembling of Congress, in December last, I wrote you an official letter, calling your attention to the want of an assistant treasurer at this port, and requesting you to ask Congress for the establishment of such an office.

Nothing as yet has been done in the matter, and I again desire to call your attention to the same, in the hope that it may not be overlooked. I consider it of great importance that something should be done in this direction. It is utterly impossible for me to act in the double capacity of collector of customs and United States depositary, as both of them cannot receive my personal attention.

The business of this port has increased so rapidly that it is as much as one man can do to attend to the duties of collector faithfully, and I do not think it is right that the Government should compel me to act in a two-fold capacity.

The responsibility of being the United States depositary is a heavy one, and ought to have the undivided attention of one person as its chief. This cannot be done when, at the same time, you are compelled to watch the vast business of the custom-house.

Boston, New York, Philadelphia, New Orleans, San Francisco, and St. Louis, have each of them an assistant treasurer, and the collectors of these ports can give their undivided time to the legitimate business of their offices.

I think Baltimore ought not to be made an exception, and the increased duties on imports, together with the amount paid each year on interest of the public debt, show that she is entitled to this consideration.

I hope, therefore, my dear sir, you will ask Congress to pass a law authorizing you to appoint an assistant treasurer at this port.

I am, sir, very respectfully, your obedient servant,

JOHN L. THOMAS, JR., *Collector*.

HON. GEO. S. BOUTWELL,
Secretary of the Treasury.

The result of this was that, on the recommendation of the Secretary of the Treasury, an act was passed establishing the office of assistant treasurer for the port of Baltimore.

In transferring the accounts from the collector to the assistant treasurer, whose office was thus created, and while balancing the bank books of the late depositary with the check books at the collector's office, it was discovered that the deputy collector, Bowerman, had, for a series of years, extending back into the administration of Mr. Thomas's predecessor, purloined large sums of money, of which he had made no report, and which he had appropriated to his own uses. It was also discovered that Bowerman had used a great deal of the money thus purloined in covering up his illegal transactions under Mr. Thomas's predecessor.

Investigation was immediately set on foot by the collector, and also by the Treasury Department, and the matter was brought to the attention of the grand jury of the United States district court for the Maryland district, and these facts, in great length of detail, appeared upon these investigations.

The full amount purloined by Bowerman has been ascertained, and, as appears from the report of O. D. Madge, the chief of the special agent bureau of the Treasury Department, amounts to the sum of $27,540 25. Of this amount, $4,729 were received by Thomas J. Wilson, late deputy collector, and never deposited by him to the credit of the United States. By order of the Treasury Department suit has been brought to recover back about $10,000 of the moneys purloined by Bowerman, and which will, in all probability, be recovered. Both Bowerman and Wilson have been indicted by the grand jury of the United States court, and are now awaiting their trial.

The Secretary of the Treasury appeared before the committee, and expressed the opinion that the collector was not only not in complicity with these transactions, but that he was guilty of no dereliction of duty, or any want of due attention to have prevented them. Indeed, the committee are satisfied, from their very nature, and the opportunities the deputy collector had for perpetrating these offenses, and the excellent character he bore, and the degree of confidence universally reposed in him as an officer, it would have been impossible to have detected them for years had not the change in the system been effected by the passage of the act "to provide for the appointment of an assistant treasurer at Baltimore," approved June 15, 1870.

Mr. O. D. Madge says, in his report to the Secretary of the Treasury:

That in the investigations necessary to develop these fraudulent transactions there is nothing that in the slightest degree reflects on Collector Thomas, nor to show that it was the result of any neglect of duty on his part.

He also states:

That Mr. Thomas, in addition to his duties as collector, was at the time the designated United States depositary, and, so far as his divided attention between the two important offices would permit, established, from time to time, such regulations as seemed to be necessary to correct all irregularities and defects in the manner of conducting the custom-house business, and instituted many reforms materially benefiting the revenue.

He further states:

That the lack of a general system of proper checks upon the actions of all subordinates was wanting, and that it does not appear that such a system ever existed at that port.

Special Agent Morris says in his report:

That from the manner in which the books and accounts of the office had been kept for years it was almost impossible to have discovered the defalcation sooner. And that he knew of the efforts made by the collector from time to time to simplify the mode of keeping the accounts.

Archibald Stirling, jr., the United States district attorney of Maryland, says:

That from his official investigation he fully exonerates the collector from all blame; that Bowerman was regarded as a faithful officer, and that a strong public opinion was instrumental in his retention in office; and that his frauds were so disguised and concealed that time alone could have discovered them.

He further states:

That he traces the success of these frauds to a want of a proper system of checks, which the existing laws are to blame for, and not the collector.

The foreman of the grand jury which investigated these cases states:

That there was nothing to cast the least imputation upon the honor and integrity of the collector; that Bowerman was looked upon as a model officer; and that his retention by Mr. Thomas in office met with universal approbation.

The committee are of the opinion that officers charged with the custody of moneys are responsible, not merely for ordinary diligence as much as a careful man would give to his own business, but for extraordinary diligence, *diligentia strictissima*, and should only be relieved in case of loss which, in the nature of things, it would have been impossible for them to have prevented.

This class of cases has been before Congress on various occasions, resulting in the following acts of legislation; (see U. S. Stat. at Large):

An act for the relief of Brevet Major James Belger, approved February 3, 1857. (Vol. 11, p. 491.)

An act for the relief of James G. Benton, E. B. Babbitt, and James Longstreet, approved June 1, 1858. (Vol. 11, p. 537.)

An act for the relief of Enoch B. Talcott, late collector of customs at Oswego, approved March 3, 1859. (Vol. 11, p. 569.)

An act for the relief of J. B. Rittenhouse, fleet paymaster of the Pacific squadron, approved April 10, 1866. (Vol. 14, p. 578.)

An act for the relief of John Hastings, late surveyor and depositary at Pittsburg, approved July 27, 1866. (Vol. 14, p. 604.)

An act for the relief of James Fulton, paymaster United States Navy, approved March 2, 1867. (Vol. 14, p. 636.)

An act for the relief of John Sedgewick, collector of internal revenue of the third collection district of California, approved March 2, 1867. (Vol. 14, p. 644.)

An act for the relief of James J. Hudnall, approved March 2, 1867. (Vol. 14, p. 645.)

An act for the relief of Lieutenant Ulysses S. Grant, approved June 17, 1862. (Vol. 12, p. 905.)

An act for the relief of Gilbert E. Thornton, approved February 25, 1863. (Vol. 12, p. 924.)

Joint resolution for the relief of James L. Ridgely, collector of internal revenue, second district of Maryland, approved May 4, 1870. (Second session Forty-first Congress.)

The committee are satisfied, from the proofs in the case, written and oral, that the collector could not, from the circumstances of this case, acting under the system in operation when he entered the office, have discovered or prevented the defalcation in this instance. They therefore report the accompanying joint resolution and recommend its passage.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT. No. 21.

NAVIGATION OF THE MISSISSIPPI RIVER.

JANUARY 27, 1871.—Ordered to be printed.

Mr. E. M. WILSON, on leave, made the following

REPORT.

[To accompany bill H. R. No. 2499.]

The Committee on Public Lands, having had under consideration bill H. R. No. 2499, would report as follows:

That the act of July, 1868, was intended to secure construction of a free "lock and dam," to perfect the navigation of the Mississippi River over the rapids between Fort Snelling and St. Anthony's Falls, a proper subject for United States construction, either by money or by allotment of land; that Congress preferred to grant two hundred thousand acres for the accomplishment of said work, the State of Minnesota to be the trustee to raise from the sale thereof a fund to be expended under the supervision of the Engineer Department of the United States; that it was provided that the land should all be sold to settlers at $1 25 per acre; that while the committee are in favor of such restrictions upon agricultural land, in this instance, by reason of its generality, it operates against the interests of settlers, by compelling the State to select altogether agricultural land, because for that only can a settler be found as a purchaser. The modification proposed by the amendment allows pine land to be sold by the State as it is by the General Government to the highest bidder at public auction. Thus pine land, unfit for settlement, can be selected instead of agricultural land adapted to homesteads. The time of three years, proposed in the amendment, fixes definitely the time of construction, which, by existing law, is within two years from "*acceptance and disposition*," and which, not having yet commenced, would have an uncertain end.

The amendment does not, in any manner, enlarge the grant, and the Committee therefore recommend its passage, believing such to be both for the interest of this public work, and for the benefit of the homestead settlers.

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41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 22.

VICTORIA C. WOODHULL.

JANUARY 30, 1871.—Recommitted to the Committee on the Judiciary and ordered to be printed.

Mr. BINGHAM, from the Committee on the Judiciary, made the following

REPORT.

The Committee on the Judiciary, to whom was referred the memorial of Victoria C. Woodhull, having considered the same, make the following report:

The memorialist asks the enactment of a law by Congress which shall secure to citizens of the United States in the several States the right to vote "without regard to sex." Since the adoption of the fourteenth amendment of the Constitution, there is no longer any reason to doubt that all persons, born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside, for that is the express declaration of the amendment.

The clause of the fourteenth amendment, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States," does not, in the opinion of the committee, refer to privileges and immumities of citizens of the United States other than those privileges and immunities embraced in the original text of the Constitution, article 4, section 2. The fourteenth amendment, it is believed, did not add to the privileges or immunities before mentioned, but was deemed necessary for their enforcement as an express limitation upon the powers of the States. It had been judicially determined that the first eight articles of amendment of the Constitution were not limitations on the power of the States, and it was apprehended that the same might be held of the provision of the second section, fourth article.

To remedy this defect of the Constitution, the express limitations upon the States contained in the first section of the fourteenth amendment, together with the grant of power in Congress to enforce them by legislation, were incorporated in the Constitution. The words "citizens of the United States," and "citizens of the States," as employed in the fourteenth amendment, did not change or modify the relations of citizens of the State and nation as they existed under the original Constitution.

Attorney General Bates gave the opinion that the Constitution uses the word "citizen" only to express the political quality of the individual in his relation to the nation; to declare that he is a member of the body politic, and bound to it by the reciprocal obligation of allegiance on the one side and protection on the other. The phrase "a citizen of the United States, without addition or qualification, means neither more nor less than a member of the nation." (Opinion of Attorney General Bates on citizenship.)

The Supreme Court of the United States has ruled that, according to the express words and clear meaning of the second section, fourth article of the Constitution, no privileges are secured by it except those which belong to citizenship. (Conner et al. *vs.* Elliott et al., 18 Howard, 593.)

In Corfield *v.* Coryell, 4 Washington Circuit Court Reports, 380, the court say:

> The inquiry is, what are the privileges and immunities of citizens in the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are in their nature *fundamental*; which belong of right to the citizens of all free governments; and which have at all times been enjoyed by the citizens of the several States which compose this Union, from the time of their becoming free, independent, and sovereign. What these fundamental principles are, would perhaps be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: Protection by the Government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the Government may justly prescribe for the general good of the whole; the right of a citizen of one State to pass through or to reside in any other State, for the purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of habeas corpus; to institute and maintain actions of any kind in the courts of the State; to take, hold, and dispose of property either real or personal; and an exemption from higher taxes or impositions than are paid by the other citizens of the State, may be mentioned as some of the particular privileges and immunities of citizens which are clearly embraced by the general description of privileges deemed to be fundamental; to which may be added the elective franchise, *as regulated and established* by the laws or Constitution of the State in which it is to be exercised. * * * But we cannot accede to the proposition which was insisted on by the counsel, that under this provision of the Constitution (sec. 2, art. 4) the citizens of the several States are permitted to participate in all *the rights* which belong exclusively to the citizens of any other particular State.

The learned Justice Story declared that the intention of the clause ("the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States,") was to confer on the citizens of each State a general citizenship, and communicated all the privileges and immunities which a citizen of the same State would be entitled to under the same circumstances. (Story on the Constitution, vol. 2, p. 605.)

In the case of the Bank of the United States *vs.* Primrose, in the Supreme Court of the United States, Mr. Webster said:

> That this article in the Constitution (art. 4., sec. 2) does not confer on the citizens of each State political rights in every other State, is admitted. A citizen of Pennsylvania cannot go into Virginia and vote at any election in that State, though when he has acquired a residence in Virginia, and is otherwise qualified as is required by the constitution (of Virginia,) he becomes, without formal adoption as a citizen of Virginia, a citizen of that State politically. (Webster's Works, vol. 6, p. 112.)

It must be obvious that Mr. Webster was of opinion that the privileges and immunities of citizens, guaranteed to them in the several States, did not include the privilege of the elective franchise otherwise than as secured by the State constitution. For, after making the statement above quoted, that a citizen of Pennsylvania cannot go into Virginia and vote, Mr. Webster adds, "but for the purposes of trade, commerce, buying and selling, it is evidently not in the power of any State to impose any hinderance or embarassment, &c., upon citizens of other States, or to place them, going there, upon a different footing from her own citizens." (*Ib.*)

The proposition is clear that no citizen of the United States can rightfully vote in any State of this Union who has not the qualifications required by the Constitution of the State in which the right is claimed to be exercised, except as to such conditions in the constitution of such States as deny the right to vote to citizens resident therein "on account of race, color, or previous condition of servitude."

The adoption of the fifteenth amendment of the Constitution imposing

these three limitations upon the power of the several States, was, by necessary implication, a declaration that the States had the power to regulate by a uniform rule the conditions upon which the elective franchise should be exercised by citizens of the United States resident therein. The limitations specified in the fifteenth amendment exclude the conclusion that a State of this Union, having a government republican in form, may not prescribe conditions upon which alone citizens may vote other than those prohibited. It can hardly be said that a State law which excludes from voting women citizens, minor citizens, and nonresident citizens of the United States, on account of sex, minority, or domicile, is a denial of the right to vote on account of race, color, or previous condition of servitude.

It may be further added that the second section of the fourteenth amendment, by the provision that "when the right to vote at any election for the choice of electors of President and Vice-President of the United States, Representatives in Congress, or executive and judicial officers of the State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, a citizen of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State," implies that the several States may restrict the elective franchise as to other than male citizens. In disposing of this question effect must be given, if possible, to every provision of the Constitution. Article 1, section 2, of the Constitution provides:

> That the House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

This provision has always been construed to vest in the several States the exclusive right to prescribe the qualifications of electors for the most numerous branch of the State legislature, and therefore for members of Congress. And this interpretation is supported by section 4, article 1, of the Constitution, which provides:

> That the time, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations except as to the place of choosing Senators.

Now it is submitted, if it had been intended that Congress should prescribe the qualification of electors, that the grant would have read: The Congress may at any time by law make or alter such regulations, and also prescribe the qualification of electors, &c. The power, on the contrary, is limited exclusively to the time, place, and manner, and does not extend to the qualification of the electors. This power to prescribe the qualification of electors in the several States has always been exercised, and is to-day, by the several States of the Union; and we apprehend, until the Constitution shall be changed, will continue to be so exercised, subject only to the express limitations imposed by the Constitution upon the several States, before noticed. We are of opinion, therefore, that it is not competent for the Congress of the United States to establish by law the right to vote without regard to sex in the several States of this Union, without the consent of the people of such States, and against their constitutions and laws; and that such legislation would be, in our judgment, a violation of the Constitution of the United States, and of the rights reserved to the States respectively by the Constitution. It is undoubtedly the right of the people of the several States so to reform

their constitutions and laws as to secure the equal exercise of the right of suffrage, at all elections held therein under the Constitution of the United States, to all citizens, without regard to sex; and as public opinion creates constitutions and governments in the several States, it is not to be doubted that whenever, in any State, the people are of opinion that such a reform is advisable, it will be made.

If, however, as is claimed in the memorial referred to, the right to vote "is vested by the Constitution in the citizens of the United States without regard to sex," that right can be established in the courts without further legislation.

The suggestion is made that Congress, by a mere declaratory act, shall say that the construction claimed in the memorial is the true construction of the Constitution, or, in other words, that by the Constitution of the United States the right to vote is vested in citizens of the United States "without regard to sex," anything in the constitution and laws of any State to the contrary notwithstanding. In the opinion of the committee, such declaratory act is not authorized by the Constitution nor within the legislative power of Congress. We therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner be not granted, that the memorial be laid on the table, and that the Committee on the Judiciary be discharged from the further consideration of the subject.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 22, Part 2.

VICTORIA C. WOODHULL.

FEBRUARY 1, 1871.—Ordered to be printed.

Mr. LOUGHRIDGE, from the Committee on the Judiciary, submitted the following as the

VIEWS OF THE MINORITY.

In the matter of the memorial of Victoria C. Woodhull, referred by the House to the Committee on the Judiciary, the undersigned, members of the committee, being unable to agree to the report of the committee, present the following as their views upon the subject of the memorial:

The memorialist sets forth that she is a native born citizen of the United States, and a resident thereof; that she is of adult age, and has resided in the State of New York for three years past; that by the Constitution of the United States she is guaranteed the right of suffrage; but that she is, by the laws of the State of New York, denied the exercise of that right; and that by the laws of different States and Territories the privilege of voting is denied to all the female citizens of the United States; and petitions for relief by the enactment of some law to enforce the provisions of the Constitution, by which such right is guaranteed.

The question presented is one of exceeding interest and importance, involving as it does the constitutional rights not only of the memorialist but of more than one half of the citizens of the United States—a question of constitutional law in which the civil and the natural rights of the citizen are involved. Questions of propriety or of expediency have nothing to do with it. The question is not "Would it be expedient to extend the right of suffrage to women," but "Have women citizens that right by the Constitution as it is."

A question of this kind should be met fairly and investigated in that generous and liberal spirit characteristic of the age, and decided upon principles of justice, of right, and of law.

It is claimed by many that to concede to woman the right of suffrage would be an innovation upon the laws of nature, and upon the theory and practice of the world for ages in the past, and especially an innovation upon the common law of England, which was originally the law of this country, and which is the foundation of our legal fabric.

If we were to admit the truth of this, it is yet no argument against the proposition, if the right claimed exists, and is established by the Constitution of the United States. The question is to be decided by the Constitution and the fundamental principles of our Government, and not by the usage and dogmas of the past.

It is a gratifying fact that the world is advancing in political science, and gradually adopting more liberal and rational theories of government.

The establishment of this Government upon the principles of the Declaration of Independence was in itself a great innovation upon the

theories and practice of the world, and opened a new chapter in the history of the human race, and its progress toward perfect civil and political liberty.

But it is not admitted that the universal usage of the past has been in opposition to the exercise of political power by women. The highest positions of civil power have from time to time been filled by women in all ages of the world, and the question of the right of woman to a voice in government is not a new one by any means, but has been agitated, and the right acknowledged and exercised, in governments far less free and liberal than ours.

In the Roman Republic, during its long and glorious career, women occupied a higher position, as to political rights and privileges, than in any other contemporaneous government. In England unmarried women have, by the laws of that country, always been competent to vote and to hold civil offices, if qualified in other respects; at least such is the weight of authority. In "Callis upon Sewers," an old English work, will be found a discussion of the question as to the right of women to hold office in England.

The learned and distinguished author uses the following language:

> And for temporal governments I have observed women to have from time to time been admitted to the highest places; for in ancient Roman histories I find Eudocia and Theodora admitted at several times into the sole government of the empire; and here in England our late famous Queen Elizabeth, whose government was most renowned; and Semiramis governed Syria, and the Queen of the South, which came to visit Solomon, for anything that appears to the contrary, was a sole queen; and to fall a degree lower, we have precedents that King Richard the First and King Henry the Fifth appointed by commissions their mothers to be regents of this realm in their absence in France.
>
> But yet I will descend a step lower; and doth not our law temporal and spiritual admit of women to be executrixes and administratrixes? And thereby they have the rule or ordering of great estates, and many times they are guardianesses in chivalry, and have hereby also the government of many great heirs in the kingdom and of their own estates.
>
> So by these cases it appeareth that the common law of this kingdom submitted many things to their government; yet the statute of justices of the peace is like to Jethro's counsel to Moses, for there they speak of men to be justices, and thereby seemeth to exclude women; but our statute of sewers is, "Commission of sewers shall be granted by the King to such person and persons as the lords should appoint." So the word persons stands indifferently for either sex. I am of the opinion, for the authorities, reasons, and causes aforesaid, that this honorable countess being put into the commission of the sewers, the same is warrantable by the law; and the ordinances and decrees made by her and the other commissions of sewers are not to be impeached for that cause of her sex.

As it is said by a recent writer:

> Even at present in England the idea of women holding official station is not so strange as in the United States. The Countess of Pembroke had the office of sheriff of Westmoreland and exercised it in person. At the assizes she sat with the judges on the bench. In a reported case it is stated by counsel and assented to by the court that a woman is capable of serving in almost all the offices of the kingdom.

As to the right of women to vote by the common law of England, the authorities are clear. In the English Law Magazine for 1868–'69, vol. 26, p 120, will be found reported the case of the application of *Jane Allen*, who claimed to be entered upon the list of voters of the Parish of St. Giles, under the reform act of 1867, which act provides as follows: Every man shall, in and after the year 1868, be entitled to be registered as a voter, and when registered to vote for a member or members to serve in parliament, who is qualified as follows: 1st. Is of full age and not subject to any legal incapacity, &c., &c.

It was decided by the court that the claimant had the right to be registered and to a vote; that by the English law, the term man, as used in that statute, included women. In that case the common law

of England upon that question was fully and ably reviewed, and we may be excused for quoting at some length:

> And as to what has been said of there being no such adjudged cases, I must say that it is perfectly clear that not perhaps in either of three cases reported by Mr. Shaen, but in those of Catharine *vs.* Surry, Coates *vs.* Lyle, and Holt *vs.* Lyle, three cases of somewhat greater antiquity, the right of women freeholders was allowed by the courts. These three cases were decided by the judges in the reign of James I, (A. D. 1612.) Although no printed report of them exists, I find that in the case of Olive *vs.* Ingraham, they were repeatedly cited by the lord chief justice of the King's Bench in the course of four great arguments in that case, the case being reargued three times, (7 Mod., 264,) and the greatest respect was manifested by the whole court for those precedents. Their importance is all the greater when we consider what the matter was upon which King James's judges sitting in Westminster Hall had to decide. It was not simply the case of a mere occupier, inhabitant, or scot or lot voter. Therefore the question did not turn upon the purport of a special custom, or a charter, or a local act of Parliament, or even of the common right in this or that borough. But it was that very matter and question which has been mooted in the dictum of Lord Coke, the freeholder's franchise in the shire, and upon that the decision in each case expressly was, that a feme sole shall vote if she hath a freehold, and that if she be not a feme sole, but a feme covert having freehold, then her husband during her coverture shall vote in her right. These, then, are so many express decisions which at once displace Lord Coke's unsupported assertion and declare the law so as to constrain my judgment. It is sometimes said, when reference is made to precedents of this kind, that they have never been approved by the bar. But that cannot be said of these. Hakewell, the contemporary of Lord Coke and one of the greatest of all parliamentary lawyers then living—for even Selden and Granvil were not greater than Hakewell—left behind him the manuscript to which I have referred, with his comments on those cases.

Sir William Lee, chief justice, in his judgment in the case of Olive *vs.* Ingraham, expressly says that he had perused them, and that they contained the expression of Hakewell's entire approval of the principles upon which they were decided, and of the results deduced; and we have the statement of Lord Chief Justice Lee, who had carefully examined those cases, that in the case of Holt *vs.* Lyle, it was determined that a *feme sole* freeholder may claim a vote for Parliament men; but if married, her husband must vote for her.

In the case of Olive *vs.* Ingraham, Justice Probyn says:

> The case of Holt *vs.* Lyle, lately mentioned by my Lord Chief Justice, is a very strong case. "*They who pay ought to choose whom they shall pay.*" And the Lord Chief Justice seemed to have assented to that general proposition as authority for the correlative proposition, that "women, when *sole*, had a right to vote." At all events, there is here the strongest possible evidence that in the reign of James I, the *feme sole*, being a freeholder of a country, or what is the same thing, of a county, of a city, or town or borough, where, of custom, freeholders had the right to vote, not only had, but exercised the parliamentary franchise. If married, she could not vote in respect merely of her freehold, not because of the incapacities of coverture, but for this simple reason, that, by the act of marriage, which is an act of law, the title of the *feme sole* freeholder became vested for life in the husband. The qualification to vote was not personal, but real; consequently, her right to vote became suspended as soon and for as long as she was married. I am bound to consider that the question as to what weight is due to the dictum of my Lord Coke is entirely disposed of by those cases from the reign of James I and George II, and that the authority of the latter is unimpeached by any later authority, as the cases of Rex *vs.* Stubles, and Regina *vs.* Aberavon, abundantly show.

In Austey's Notes on the New Reform Act of 1867, the authorities and precedents upon the right of women to vote in England are examined and summed up, and the author concludes:

> It is submitted that the weight of authority is very greatly in favor of the female right of suffrage. Indeed the only authority against it is contained in the short and hasty dictum of Lord Coke, referred to above. It was set down by him in his last and least authoritative institute, and it is certain that he has been followed neither by the great lawyers of his time nor by the judicature. The principles of the law in relation to the suffrage of females will be found in Coates *vs.* Lyle, Holt *vs.* Lyle, Olive *vs.* Ingraham, and The King *vs.* Stubles, cases decided under the strict rules for the construction of statutes.

It cannot be questioned that from time whereof the memory of man

runneth not to the contrary, unmarried women have been by the laws of England competent voters, subject to the freehold qualification which applied alike to men and women. Married women could not vote because they were not freeholders; by the common law their property upon marriage became vested in the husband.

So that it appears that the admission of women to participation in the affairs of government would not be so much of an innovation upon the theories and usage of the past as is by some supposed.

In England the theory was that in property representation, all property should be represented. Here the theory is that of personal representation, which of course, if carried out fully, includes the representation of all property. In England, as we have seen, the owner of the property, whether male or female, was entitled to representation, no distinction being made on account of sex. If the doctrine contended for by the majority of the committee be correct, then this Government is less liberal upon this question than the government of England has been for hundreds of years, for there is in this country a large class of citizens of adult age, and owners in their own right of large amounts of property, and who pay a large proportion of the taxes to support the Government, who are denied any representation whatever, either for themselves or their property—unmarried women, of whom it cannot be said that their interests are represented by their husbands. In their case neither the English nor the American theory of representation is carried out, and this utter denial of representation is justified upon the ground alone that this class of citizens are women.

Surely we cannot be so much less liberal than our English ancestors! Surely the Constitution of this republic does not sanction an injustice so indefensible as that!

By the fourteenth amendment of the Constitution of the United States, what constitutes citizenship of the United States, is for the first time declared, and who are included by the term citizen. Upon this question, before that time, there had been much discussion, judicial, political and general, and no distinct and definite definition of qualification had been settled.

The people of the United States determined this question by the fourteenth amendment to the Constitution, which declares that—

> All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

This amendment, after declaring who are citizens of the United States, and thus fixing but one grade of citizenship, which insures to all citizens alike all the privileges, immunities and rights which accrue to that condition, goes on in the same section and prohibits these privileges and immunities from abridgment by the States.

Whatever these "privileges and immunities" are, they attach to the female citizen equally with the male. It is implied by this amendment that they are inherent, that they belong to citizenship as such, for they are not therein specified or enumerated.

The majority of the committee hold that the privileges guaranteed by the fourteenth amendment do not refer to any other than the privileges embraced in section 2, of article 4, of the original text.

The committee certainly did not duly consider this unjustified statement.

Section 2, of article 4, provides for the privileges of "citizens of the *States*," while the first section of the fourteenth amendment protects the privileges of "*citizens of the United States.*" The terms citizens of the *States* and citizens of the *United States* are by no means convertible.

A circuit court of the United States seems to hold a different view of this question from that stated by the committee.

In the case of The Live Stock Association *vs.* Crescent City, (1st Abbott, 396,) Justice Bradley, of the Supreme Court of the United States, delivering the opinion, uses the following language in relation to the 1st clause of the 14th amendment:

> The new prohibition that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States" is not identical with the clause in the Constitution which declared that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." It embraces much more.
>
> It is possible that those who framed the article were not themselves aware of the far-reaching character of its terms, yet if the amendment does in fact bear a broader meaning, and does extend its protecting shield over those who were never thought of when it was conceived and put in form, and does reach social evils which were never before prohibited by constitutional enactment, it is to be presumed that the American people, in giving it their *imprimatur*, understood what they were doing, and meant to decree what in fact they have decreed.
>
> The "privileges and immunities" secured by the original Constitution were only such as each State gave to its own citizens, * * * * * but the fourteenth amendment prohibits any State from abridging the privileges or immunities of citizens of the United States, whether its own citizens or any others. It not merely requires equality of privileges, but it demands that the privileges and immunities of all citizens shall be absolutely unabridged and unimpaired.

In the same opinion, after enumerating some of the "privileges" of the citizens, such as were pertinent to the case on trial, but declining to enumerate all, the court further says:

> These privileges cannot be invaded without sapping the very foundation of republican government. A republican government is not merely a government of the people, but it is a free government. * * * * * It was very ably contended on the part of the defendants that the fourteenth amendment was intended only to secure to all citizens equal capacities before the law. That was at first our view of it. But it does not so read. The language is, "No State shall abridge the privileges or immunities of citizens of the United States." What are the privileges and immunities of citizens of the United States? Are they capacities merely? Are they not also rights?

The court in this case seems to intimate very strongly that the amendment was intended to secure the natural rights of citizens, as well as their equal capacities before the law.

In a case in the supreme court of Georgia, in 1869, the question was before the court whether a negro was competent to hold office in the State of Georgia. The case was ably argued on both sides, Mr. Akerman, the present Attorney General of the United States, being of counsel for the petitioner. Although the point was made and argued fully, that the right to vote and hold office were both included in the privileges and immunities of citizens, and were thus guaranteed by the fourteenth amendment, yet that point was not directly passed upon by the court, the court holding that under the laws and constitution of Georgia the negro citizen had the right claimed. In delivering the opinion, Chief Justice Brown said:

> It is not necessary to the decision of this case to inquire what are the "privileges and immunities" of a citizen, which are guaranteed by the fourteenth amendment to the Constitution of the United States. Whatever they may be, they are protected against all abridgment by legislation. * * Whether the "privileges and immunities" of the citizen embrace political rights, including the right to hold office, I need not now inquire. If they do, that right is guaranteed alike by the Constitution of the United States and of Georgia, and is beyond the control of the legislature.

In the opinion of Justice McKay, among other propositions, he lays down the following:

2d. The rights of the people of this State, white and black, are not granted to them by the constitution thereof; the object and effect of that instrument is not to *give*, but to restrain, deny, regulate, and guarantee rights, and all persons recognized by that constitution as citizens of the State have *equal legal and political rights*, except as *otherwise expressly declared*.

3d. It is the settled and uniform sense of the word "citizen," when used in reference to the citizens of the separate States of the United States, and to their rights as such citizens, that it describes a person entitled to every right, *legal and political*, enjoyed by any person in that State, unless there be some express exception made by positive law covering the particular person or class of persons, whose rights are in question.

In the course of the argument of this case, Mr. Akerman used the following language upon the point, as to whether citizenship carried with it the right to hold office:

"It may be profitable to inquire how the term (citizen) has been understood in Georgia. * * * It will be seen that men whom Georgians have been accustomed to revere believed that citizenship in Georgia carried with it the right to hold office in the absence of positive restrictions."

The majority of the committee having started out with the erroneous hypothesis that the term "privileges of citizens of the United States," as used in the fourteenth amendment, means no more than the term "privileges of citizens," as used in section 2 of article 4, discuss the question thus.

"The right of suffrage was not included in the privileges of citizens as used in section 2, article 4, therefore that right is not included in the privileges of citizens of the United States, as used in the fourteenth amendment."

Their premise being erroneous their whole argument fails. But if they were correct in their premise, we yet claim that their second position is not sustained by the authorities, and is shown to be fallacious by a consideration of the principles of free government.

We claim that, from the very nature of our government, the right of suffrage is a fundamental right of citizenship, not only included in the term "privileges of citizens of the United States," as used in the fourteenth amendment, but also included in the term as used in section 2 of article 4, and in this we claim we are sustained both by the authorities and by reason.

In *Abbott* vs. *Bayley*, (6 *Pick.*, 92,) the supreme court of Massachusetts say:

"The privileges and immunities" secured to the people of each State, in every other State, can be applied only to the case of a removal from one State into another. By such removal they become citizens of the adopted State without naturalization, and have a right to sue and be sued as citizens; and yet this privilege is qualified and not absolute, for they cannot enjoy the right of suffrage or eligibility to office without such *term of residence* as shall be prescribed by the constitution and laws of the State into which they shall remove.

This case fully recognizes the right of suffrage as one of the "privileges of the citizen," subject to the right of the State to *regulate* as to the *term of residence*—the same principle was laid down in Corfield *vs.* Correll.

In the case of *Corfield* vs. *Correll* in the Supreme Court of the United States, Justice Washington, in delivering the opinion of the court, used the following language.

"The privileges and immunities conceded by the Constitution of the United States to citizens in the several States," are to be confined to those which are in their nature fundamental, and belong of right to the citizens of all free governments. Such are the rights of protection of life and liberty, and to acquire and enjoy property, and to pay no higher impositions than other citizens, and to pass through or reside in the State at

pleasure, and to enjoy the elective franchise as regulated and established by the laws or constitution of the State in which it is to be exercised.

And this is cited approvingly by Chancellor Kent. (2 Kent, sec. 72.)

This case is cited by the majority of the committee, as sustaining their view of the law, but we are unable so to understand it. It is for them an exceedingly unfortunate citation.

In that case the court enumerated some of the "privileges of citizens," such as are "*in their nature fundamental and belong of right to the citizens of all free governments*," (mark the language,) and among those rights, place the "right of the elective franchise" in the same category with those great rights of life, *liberty*, and *property*. And yet the committee cite this case to show that this right is *not* a fundamental right of the citizen!

But it is added by the court that the right of the elective franchise, "is to be enjoyed as regulated and established by the State in which it is to be exercised."

These words are supposed to qualify the right, or rather take it out of the list of fundamental rights, where the court had just placed it. The court is made to say by this attempt in the same sentence, "the elective franchise *is* a fundamental right of the citizen, and it is *not* a fundamental right." It is a "fundamental right," provided the State sees fit to grant the right. It is a "fundamental right of the citizen," but it does not exist, unless the laws of the State give it. A singular species of "fundamental rights!" Is there not a clear distinction between the regulation of a right and its destruction? The State may regulate the right, but it may not destroy it.

What is the meaning of "regulate" and "establish?" Webster says: Regulate—to put in good order. Establish—to make stable or firm.

This decision then is, that "the elective franchise is a fundamental right of the citizen of all free governments, to be enjoyed by the citizen, under such laws as the State may enact to regulate the right and make it stable or firm." Chancellor Kent, in the section referred to, in giving the *substance* of this opinion, leaves out the word establish, regarding the word regulate as sufficiently giving the meaning of the court.

This case is, in our opinion, a very strong one against the theory of the majority of the committee.

The committee cite the language of Mr. Webster, as counsel in United States *vs.* Primrose.

We indorse every word in that extract. We do not claim that a citizen of Pennsylvania can go into Virginia and vote in Virginia, being a citizen of Pennsylvania. No person has ever contended for such an absurdity. We claim that when the citizen of the United States becomes a citizen of Virginia, that the State of Virginia has neither right nor power to abridge the privileges of such citizen by denying him entirely the right of suffrage, and thus all political rights. The authorities cited by the majority of the commttee do not seem to meet the case—certainly do not sustain their theory.

The case of Cooper *vs.* The Mayor of Savannah, (4 Geo., 72,) involved the question whether a free negro was a citizen of the United States? The court, in the opinion, says:

> Free persons of color have never been recognized as citizens of Georgia; they are not entitled to bear arms, vote for members of the legislature, or hold any civil office; they have no political rights, but have personal rights, one of which is personal liberty.

That they could not vote, hold office, &c., was held evidence that they were not regarded as citizens.

In the Supreme Court of the United States, in the case of Scott *vs.*

Sanford, (19 Howard, p. 476,) Mr. Justice Daniel, in delivering his opinion, used the following language as to the rights and qualities of citizenship:

> For who it may be asked is a citizen? What do the character and status of citizens import? Without fear of contradiction, it does not import the condition of being private property, the subject of individual power and ownership. Upon a principle of etymology alone, the term citizen, as derived from *civitas*, conveys the idea of connection or identification with the State or government, and a participation in its functions. But beyond this there is not, it is believed, to be found, in the theories of writers on government, or in any actual experiment heretofore tried, an exposition of the term citizen which has not been understood as conferring the actual possession and enjoyment, or the perfect right of acquisition and enjoyment, of an entire equality of privileges, civil and political.

And in the same case Chief Justice Taney said: "The words 'people of the United States' and 'citizens' are synonymous terms, and mean the same thing; they both describe the political body, who, according to our republican institutions, form the sovereignty, and who hold the power, and conduct the Government through their representatives. They are what we familiarly call the sovereign people, and every citizen is one of this people, and a constituent member of this sovereignty. (19 Howard, 404.)

In an important case in the Supreme Court of the United States, Chief Justice Jay, in delivering the opinion of the court, said: "At the Revolution the sovereignty devolved on the people, and they are truly the sovereigns of the country, but they are sovereigns without subjects, (unless the African slaves may be so called,) and have none to govern but themselves. The citizens of America are equal as fellow-citizens, and joint tenants of the sovereignty." (Chishol *vs.* Georgia, 2 Dallas, 470.)

In Conner *vs.* Elliott, (18 Howard,) Justice Curtis, in declining to give an enumeration of all the "privileges" of the citizen, said "According to the express words and clear meaning of the clause, no privileges are secured except those that belong to citizenship."

The Supreme Court said, in Corfield *vs.* Coryell, that the elective franchise is such privilege; therefore, according to Justice Curtis, it belongs to citizenship. In a case in the supreme court of Kentucky, (1 Littell's Ky. Reports, p. 333,) the court say:

> No one can, therefore, in the correct sense of the term be a citizen of a State who is not entitled upon the terms prescribed by the institutions of the State to all the rights and privileges conferred by these institutions upon the highest class of society.

Mr. Wirt, when Attorney General of the United States, in an official opinion to be found on p. 508, 1st volume Opinions of Attorneys Generals, came to the conclusion that the negroes were not citizens of the United States, for the reason that they had very few of the "privileges" of citizens, and among the "privileges of citizens" of which they were deprived, that they could not vote at any election.

Webster defines a citizen to be a person, native or naturalized, who has the privilege of voting for public officers, and who is qualified to fill offices in the gift of the people.

Worcester defines the word thus: "An inhabitant of a republic who enjoys the rights of a citizen or freeman, and who has a right to vote for public officers as a citizen of the United States."

Bouvier, in his Law Dictionary, defines the term citizen thus: "One who, under the Constitution and laws of the United States, has a right to vote for Representatives in Congress and other public officers, and who is qualified to fill offices in the gift of the people."

Aristotle defines a "citizen" to be one who is a *partner in the legislative and judicial* power, and who shares in the honors of the state." (Aristotle de Repub., lib. 3, cap. 5, D.)

The essential properties of Athenian citizenship consisted in the share possessed by every citizen in the legislature, in the election of magistrates, and in the courts of justice. (See Smith's Dictionary of Greek Antiquities, p. 289.)

The possession of the *jus suffragii*, at least, if not also of the *jus honorum*, is the principle which governs at this day in defining citizenship in the countries deriving their jurisprudence from the civil law. (Wheaton's International Law, p. 892.)

The Dutch publicist, Thorbecke, says:

> What constitutes the distinctive character of our epoch is the development of the right of citizenship. In its most extended as well as its most restricted sense, it includes a great many properties.
>
> The right of citizenship is the right of voting in the government of the local, provincial, or national community of which one is a member. In this last sense the right of citizenship signifies a participation in the right of voting, in the general government as member of the State.

(Rev. & Fr. Etr., tom. v, p. 383.)

In a recent work of some research, written in opposition to female suffrage, the author takes the ground that women are not citizens, and urges that as a reason why they can properly be denied the elective franchise, his theory being that if full citizens they would be entitled to the ballot. He uses the following language:

> It is a question about which there may be some diversity of opinion what constitutes citizenship, or who are citizens. In a loose and improper sense the word citizen is sometimes used to denote any inhabitant of the country, but this is not a correct use of the word. Those, and no others, are properly citizens who were parties to the original compact by which the Government was formed, or their successors who are qualified to take part in the affairs of Government by their votes in the election of public officers.
>
> Women and children are represented by their domestic directors or heads in whose wills theirs is supposed to be included. They, as well as others not entitled to vote, are not properly citizens, but are members of the State, fully entitled to the protection of its laws. A citizen, then, is a person entitled to vote in the elections. He is one of those in whom the sovereign power of the State resides. (Jones on Suffrage, p. 48.)

But all such fallacious theories as this are swept away by the fourteenth amendment, which abolishes the theory of different grades of citizenship, or different grades of rights and privileges, and declares all persons born in the country or naturalized in it to be citizens, in the broadest and fullest sense of the term, leaving no room for cavil, and guaranteeing to all citizens the rights and privileges of citizens of the republic.

We think we are justified in saying that the weight of authority sustains us in the view we take of this question. But considering the nature of it, it is a question depending much for its solution upon a consideration of the government under which citizenship is claimed. Citizenship in Turkey or Russia is essentially different in its rights and privileges from citizenship in the United States. In the former, citizenship means no more than the right to the protection of his absolute rights, and the "citizen" is a subject; nothing more. Here, in the language of Chief Justice Jay, there are no subjects. All, native-born and naturalized, are citizens of the highest class; here *all citizens are sovereigns*, each citizen bearing a portion of the supreme sovereignty, and therefore it must necessarily be that the right to a voice in the Government is the right and privilege of a citizen as such, and that which is undefined in the Constitution is undefined because it is self-evident.

Could a State disfranchise and deprive of the right to a vote all citizens who have red hair; or all citizens under six feet in height? All will consent that the States could not make such arbitrary distinctions the ground for denial of political privileges; that it would be a violation of the first article of the fourteenth amendment; that it would

be abridging the privileges of citizens. And yet, the denial of the elective franchise to citizens on account of sex is equally as arbitrary as the distinction on account of stature, or color of hair, or any other physical distinction.

These privileges of the citizen exist independent of the Constitution. They are not derived from the Constitution or the laws, but are the means of asserting and protecting rights that existed before any civil governments were formed—the right of life, liberty, and property. Says Paine, in his Dissertation upon the Principles of Government:

> The right of voting for representatives is the primary right, by which other rights are protected. To take away this right is to reduce man to a state of slavery, for slavery consists in being subject to the will of another; and he that has not a vote in the election of representatives is, in this case. The proposal, therefore, to disfranchise any class of men is as criminal as the proposal to take away property.

In a state of nature, before governments were formed, each person possessed the natural right to defend his liberty, his life, and his property from the aggressions of his fellow-men. When he enters into the free government he does not surrender that right, but agrees to exercise it, not by brute force, but by the ballot, by his individual voice in making the laws that dispose of, control, an l regulate those rights.

The right to a voice in the government is but the natural right of protection of one's life, liberty, and property, by personal strength and brute force, so modified as to be exercised in the form of a vote, through the machinery of a free government.

The right of self-protection, it will not be denied, exists in all equally in a state of nature, and the substitute for it exists equally in all the citizens after a free government is formed, for the free government is by all and for all.

The people "ordained and established" the Constitution. Such is the language of the preamble. "We, the people." Can it be said that the people acquire their privileges from the instrument that they themselves establish? Does the creature extend rights, privileges, and immunities to the creator? No; the people retain all the rights which they have not surrendered; and if the people have not given to the Government the power to deprive them of their elective franchise, they possess it by virtue of citizenship.

The true theory of this Government, and of all free governments, was laid down by our fathers in the Declaration of Independence, and declared to be "self-evident." "All men are endowed by their Creator with certain inalienable rights; among these are life, liberty, and the pursuit of happinesss. That to secure these rights governments are instituted among men, deriving all their just powers from the consent of the governed."

Here is the great truth, the vital principle, upon which our Government is founded, and which demonstrates that the right of a voice in the conduct of the Government, and the selection of the rulers, is a right and privilege of all citizens.

Another of the self-evident truths laid down in that instrument is:

> That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

How can the people carry out this right without the exercise of the ballot; and is not the ballot then a fundamental right and a privilege of the citizen, not given to him by the Constitution, but inherent, as a necessity, from the very nature of government?

Benjamin Franklin wrote:

That every man of the commonalty, except infants, insane persons, and criminals, is, of common right, and by the laws of God, a freeman, and entitled to the free enjoyment of liberty. *That liberty or freedom consists in having an actual share in the appointment of those who frame the laws*, and who are to be the guardians of every man; life, property, and peace, for the all of one man is as dear to him as the all of another, and the poor man has an *equal* right but *more* need to have representatives in the legislature than the rich one. That they who have no voice nor vote in the electing of representatives *do not enjoy liberty, but are absolutely enslaved to those who have votes and to their representatives;* for to be enslaved is to have governors whom other men have set over us, and be subject to laws made by the representatives of others, without having had representatives of our own to give consent in our behalf.—*Franklin's Works*, vol. 2, p. 372.

James Madison said:

Under every view of the subject it seems indispensable that the mass of the citizens should not be without a voice in making the laws which they are to obey, and in choosing the magistrates who are to administer them.—*Madison Papers*, vol. 3, p. 14.

Taxation without representation is abhorrent to every principle of natural or civil liberty. It was this injustice that drove our fathers into revolution against the mother country.

The very act of taxing exercised over those who are not represented appears to me to be depriving them of one of their most essential rights as freemen, and if continued, seems to be, in effect, an entire disfranchisement of every civil right. For what one civil right is worth a rush after a man's property is subject to be taken from him at pleasure without his consent? If a man is not his *own assessor*, in person or by deputy, his liberty is gone, or he is entirely at the mercy of others.—*Otis's Rights of the Colonies*, p. 58.

Nor are these principles original with the people of this country. Long before they were ever uttered on this continent they were declared by Englishmen. Said Lord Summers, a truly great lawyer of England:

Amongst all the rights and privileges appertaining unto us, that of having a share in the legislation, and being governed by such laws as we ourselves shall cause, is the most fundamental and essential, as well as the most advantageous and beneficial.

Said the learned and profound Hooker:

By the natural law whereunto Almighty God hath made all subject, the lawful power of making laws to command whole politic societies of men, belongeth so properly unto the same entire societies, that for any prince or potentate of what kind soever upon earth to exercise the same of himself, (or themselves,) and not either by express commission immediately received from God, or else by authority derived at the first from their consent upon whose persons they impose laws, it is no better than mere tyranny! Agreeable to the same just privileges of *natural equity*, is that maxim for the English constitution, that "Law to bind all must be assented to by all;" and there can be no legal appearance of assent without some degree of representation.

The great champion of liberty, Granville Sharpe, declared that—

All British subjects, whether in Great Britain, Ireland, or the colonies, are equally *free* by the laws of nature; they certainly are equally entitled to the same natural rights that are essential for their own preservation, because this privilege of "having a share in the legislation" is not merely a *British right*, peculiar to this island, but it is also a natural right, which cannot without the most flagrant and stimulating injustice be withdrawn from any part of the British empire *by any worldly* authority whatsoever.

No tax can be levied without manifest robbery and injustice where this legal and constitutional representation is wanting, because the English law abhors the idea of taking the least property from freemen without their free consent.

It is iniquitous (*iniquum est*, says the maxim) that freemen should not have the *free* disposal of their own effect, and whatever is iniquitous can never be made lawful by any authority on earth, not even by the united authority of king, lords, and commons, for that would be contrary to the eternal laws of God, which are supreme.

In an essay upon the "first principles of government," by Priestly, an English writer of great ability, written over a century since, is the following definition of political liberty:

Political liberty, I would say, consists in power, which the members of the state

reserve to themselves, of arriving at the public offices, or at least of having votes in the nomination of those who fill them.

In countries where every member of the society enjoys an equal power of arriving at the supreme offices, and consequently of directing the strength and sentiments of the whole community, there is a state of the most perfect political liberty.

On the other hand, in countries where a man is excluded from these offices, or from the power of voting for proper persons to fill them, *that man*, whatever be the form of the government, has no share in the government and therefore has no political liberty at all. And since every man retains and can never be deprived of his natural right of relieving himself from all oppression, that is, from everything that has been imposed upon him without his own consent, this must be the only true and proper foundation of all the governments subsisting in the world, and that to which the people who compose them have an inalienable right to bring them back.

It was from these great champions of liberty in England that our forefathers received their inspiration and the principles which they adopted, incorporated into the Declaration of Independence, and made the foundation and framework of our Government. And yet it is claimed that we have a Government which tramples upon these elementary principles of political liberty, in denying to one-half its adult citizens all political liberty, and subjecting them to the tyranny of taxation without representation. It cannot be.

When we desire to construe the Constitution, or to ascertain the powers of the Government and the rights of the citizens, it is legitimate and necessary to recur to those principles and make them the guide in such investigation.

It is an oft-repeated maxim set forth in the bills of rights of many of the State constitutions that "the frequent recurrence to fundamental principles is necessary for the preservation of liberty and good government."

Recurring to those principles, so plain, so natural, so like political axioms, it would seem that to say that one-half the citizens of this republican Government, simply and only on account of their sex, can legally be denied the right to a voice in the Government, the laws of which they are held to obey, and which takes from them their property by taxation, is so flagrantly in opposition to the principles of free government, and the theory of political liberty, that no man could seriously advocate it.

But it is said in opposition to the "citizen's right" of suffrage that at the time of the establishment of the Constitution, women were in all the States denied the right of voting, and that no one claimed at the time that the Constitution of the United States would change their status; that if such a change was intended it would have been explicitly declared in the Constitution or at least carried into practice by those who framed the Constitution, and, therefore, such a construction of it is against what must have been the intention of the framers.

This is a very unsafe rule of construction. As has been said, the Constitution necessarily deals in general principles; these principles are to be carried out to their legitimate conclusion and result by legislation, and we are to judge of the intention of those who established the Constitution by what they say, guided by what they declare on the face of the instrument to be their object.

It is said by Judge Story, in Story on Constitution, "Contemporary construction is properly resorted to to illustrate and confirm the text. * * *It can never abrogate the text; it can never fritter away its obvious sense;* it can never narrow down its true limitations."

It is a well-settled rule that in the construction of the Constitution, the objects for which it was established, being expressed in the instrument, should have great influence; and when words and phrases are used which are capable of different constructions, that construction

should be given which is the most consonant with the declared objects of the instrument.

We go to the preamble to ascertain the objects and purpose of the instrument. Webster defines preamble thus: "The introductory part of a statute, which states the reason and intent of the law."

In the preamble, then, more certainly than in any other way, aside from the language of the instrument, we find the intent.

Judge Story says:

> The importance of examining the preamble for the purpose of expounding the language of a statute has been long felt and universally conceded in all juridical discussion. It is an admitted maxim * * that the preamble is a key to open the mind of the matters as to the mischiefs to be remedied and the objects to be accomplished by the statute. * * It is properly resorted to where doubts or ambiguities arise upon the words of the enacting part, for if they are clear and unambiguous, there seems little room for interpretation, except in cases leading to an obvious absurdity or to a direct overthrow of the intention expressed in the preamble. (Story on the Constitution, sec. 457.)

Try this question by a consideration of the objects for which the Constitution was established, as set forth in the preamble, "to establish justice." Does it establish justice to deprive of all representation or voice in the Government one-half of its adult citizens and compel them to pay taxes to and support a Government in which they have no representation? Is "taxation without representation" justice established?

"To insure domestic tranquillity." Does it insure domestic tranquillity to give all the political power to one class of citizens, and deprive another class of any participation in the government? No. The sure means of tranquillity is to give "equal political rights to all," that all may stand "equal before the law."

"To provide for the common defense." We have seen that the only defense the citizen has against oppression and wrong is by his voice and vote in the selection of the rulers and law-makers. Does it, then, "provide for the common defense," to deny to one-half the adult citizens of the republic that voice and vote?

"To secure the *blessings of liberty* to ourselves and our posterity." As has been already said, *there can be no political liberty* to any *citizen deprived of a voice in the government.* This is self-evident; it needs no demonstration. Does it, then, "secure the blessings of liberty to ourselves and our posterity," to deprive one-half the citizens of adult age of this right and privilege?

Tried by the expressed objects for which the Constitution was established, as declared by the people themselves, this denial to the women citizens of the country of the right and privilege of voting is directly in contravention of these objects, and must, therefore, be contrary to the spirit and letter of the entire instrument.

And according to rule of construction referred to, no "contemporaneous construction, however universal it may be, can be allowed to set aside the expressed objects of the makers, as declared in the instrument." The construction which we claim for the 1st section of the fourteenth amendment is in perfect accord with those expressed objects; and even if there were anything in the original text of the Constitution at variance with the true construction of that section, the amendment must control. Yet we believe that there is nothing in the original text at variance with what we claim to be the true construction of the amendment.

It is claimed by the majority of the committee that the adoption of the fifteenth amendment was by necessary implication a declaration that the States had the power to deny the right of suffrage to citizens for any other reasons than those of race, color, or previous condition of servitude.

We deny that the fundamental rights of the American citizen can be taken away by "implication."

There is no such law for the construction of the Constitution of our country. The law is the reverse—that the fundamental rights of citizens are not to be taken away by implication, and a constitutional provision for the protection of one class can certainly not be used to destroy or impair the same rights in another class.

It is too violent a construction of an amendment, which prohibits States from, or the United States from, abridging the right of a citizen to vote, by reason of race, color, or previous condition of servitude, to say that by implication it conceded to the States the power to deny that right for any other reason. On that theory the States could confine the right of suffrage to a small minority, and make the State government aristocratic, overthrowing their republican form.

The fifteenth article of amendment to the Constitution clearly recognizes the right to vote, as one of the rights of a citizen of the United States. This is the language:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of survitude."

Here is stated, first, the existence of a *right*. Second, its nature. Whose right is it? The right of citizens of the United States. What is the right? The right to vote. And this right of citizens of the United States, States are forbidden to abridge. Can there be a more direct recognition of a right? Can that be *abridged* which does not *exist?* The denial of the power to abridge the right, recognizes the existence of the right. Is it said that this right exists by virtue of State citizenship, and State laws and constitutions? Mark the language: "The right of citizens of the *United States* to vote;" not, citizens of *States*. The right is recognized as existing independent of State citizenship.

But it may be said, if the States had no power to abridge the right of suffrage, why the necessity of prohibiting them?

There may not have been a necessity; it may have been done through caution, and because the peculiar condition of the colored citizens at that time rendered it necessary to place their rights beyond doubt or cavil.

It is laid down as a rule of construction by Judge Story that the natural import of a single clause is not to be narrowed so as to exclude implied powers resulting from its character simply because there is another clause which enumerates certain powers which might otherwise be deemed implied powers within its scope, for in such cases we are not to assume that the affirmative specification excludes all other implications. (2d Story on Constitution, sec. 449.)

There are numerous instances in the Constitution where a general power is given to Congress, and afterward a particular power given, which was included in the former; yet the general power is not to be narrowed, because the particular power is given. On this same principle the fact that by the fifteenth amendment the States are specifically forbidden to deny the right of suffrage on account of race, color, or previous condition of servitude, does not narrow the general provision in the fourteenth amendment which guarantees the privileges of all the citizens against abridgment by the States on any account.

The rule of interpretation relied upon by the committee in their construction of the fifteenth amendment is, "that the expression of one thing is the exclusion of another," or the specification of particulars is the exclusion of generals.

Of these maxims Judge Story says:

> They are susceptible of being applied, and often are ingeniously applied, to the subversion of the text and the objects of the instrument. The truth is, in order to ascertain how far an affirmative or negative provision excludes or implies others, we must look to the nature of the provision, the subject-matter, the objects, and the scope of the instrument; these and these only can properly determine the rule of construction. (2 Story, 448)

It is claimed by the committee that the second section of the fourteenth amendment implies that the several States may restrict the right of suffrage as to other than male citizens. We may say of this as we have said of the theory of the committee upon the effect of the fifteenth amendment. It is a proposal to take away from the citizens guarantees of fundamental rights, by implication, which have been previously given in absolute terms.

The first section includes all citizens in its guarantees, and includes all the "privileges and immunities" of citizenship and guards them against abridgment, and under no recognized or reasonable rule of construction can it be claimed that by implication from the provisions of the second section the States may not only abridge but entirely destroy one of the highest privileges of the citizen to one-half of the citizens of the country. What we have said in relation to the committee's construction of the effect of the fifteenth amendment applies equally to this.

The object of the first section of this amendment was to secure all the rights, privileges, and immunities of all the citizens against invasion by the States. The object of the second section was to fix a rule or system of apportionment for Representatives and taxation; and the provision referred to, in relation to the exclusion of males from the right of suffrage, might be regarded as in the nature of a penalty in case of denial of that right to that class. While it, to a certain extent, protected that class of citizens, it left the others where the previous provisions of the Constitution placed them. To protect the colored man more fully than was done by that penalty was the object of the fifteenth amendment.

In no event can it be said to be more than the recognition of an existing fact, that only the male citizens were, by the State laws, allowed to vote, and that existing order of things was recognized in the rule of representation, just as the institution of slavery was recognized in the original Constitution, in the article fixing the basis of representation, by the provision that only three-fifths of all the slaves ("other persons") should be counted. There slavery was recognized as an existing fact, and yet the Constitution never sanctioned slavery, but, on the contrary, had it been carried out according to its true construction, slavery could not have existed under it; so that the recognition of facts in the Constitution must not be held to be a sanction of what is so recognized.

The majority of the committee say that this section implies that the States may deny suffrage to others than male citizens. If it implies anything it implies that the States may deny the franchise to all the citizens. It does not provide that they shall not deny the right to male citizens, but only provides that if they do so deny they shall not have representation for them.

So, according to that argument, by the second section of the fourteenth amendment the power of the States is conceded to entirely take away the right of suffrage, even from that privileged class, the male citizens. And thus this rule of "implication" goes too far, and fritters away all the guarantees of the Constitution of the right of suffrage, the highest of the privileges of the citizen; and herein is demonstrated the reason and safety of the rule that fundamental rights are not to be taken away by implication, but only by express provision.

When the advocates of a privileged class of citizens under the Constitution are driven to implication to sustain the theory of taxation without representation, and American citizenship without political liberty, the cause must be weak indeed.

It is claimed by the majority that by section 2, article 1, the Constitution recognizes the power in States to declare who shall and who shall not exercise the elective franchise. That section reads as follows:

> The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

The first clause of this section declares *who* shall choose the Representatives—mark the language—"Representatives *shall be chosen by the people* of the States," not by the male people, not by certain classes of the people, but by the people; so that the construction sought to be given this section, by which it would recognize the power of the State to disfranchise one-half the citizens, as in direct contravention of the first clause of the section, and of its whole spirit, as well as of the objects of the instrument. The States clearly have no power to nullify the express provisions that the election shall be by the people, by any laws limiting the election to a moiety of the people.

It is true the section recognizes the power in the State to regulate the qualification of the electors; but as we have already said, the power to regulate is a very different thing from the power to destroy.

The two clauses must be taken together, and both considered in connection with the declared purpose and objects of the Constitution.

The Constitution is necessarily confined to the statement of general principles. There are regulations necessary to be made as to the qualifications of voters, as to their proper age, their domicile, the length of residence necessary to entitle the citizen to vote in a given State or place. These particulars could not be provided in the Constitution but are necessarily left to the States, and this section is thus construed as to be in harmony with itself, and with the expressed objects of the framers of the Constitution and the principles of free government.

When the majority of the committee can demonstrate that "the people of the States," and one-half the people of the States, are equivalent terms, or that when the Constitution provides that the Representatives shall be elected by the people, its requirements are met by an election in which less than one-half the adult people are allowed to vote, then it will be admitted that this section, to some extent, sustains them.

The committee say, that if it had been intended that Congress should prescribe the qualifications of electors, the grant would have given Congress that power specifically. We do not claim that Congress has that power; on the contrary, admit that the States have it; but the section of the Constitution *does* prescribe who the electors shall be. That is what we claim—nothing more. They shall be "the people;" their qualifications may be regulated by the States; but to the claim of the majority of the committee that they may be "qualified" out of existence, we cannot assent.

We are told that the acquiescence by the people, since the adoption of the Constitution, in the denial of political rights to women citizens, and the general understanding that such denial was in conformity with the Constitution, should be taken to settle the construction of that instrument.

Any force this argument may have it can only apply to the original text, and not to the fourteenth amendment, which is of but recent date.

But, as a general principle, this theory is fallacious. It would stop all political progress; it would put an end to all original thought, and

put the people under that tyranny with which the friends of liberty have always had to contend—the tyranny of precedent.

From the beginning, our Government has been right in theory, but wrong in practice. The Constitution, had it been carried out in its true spirit, and its principles enforced, would have stricken the chains from every slave in the republic long since. Yet, for all this, it was but a few years since declared, by the highest judicial tribunal of the republic, that, according to the "general understanding," the black man in this country had no rights the white man was bound to respect. General understanding and acquiescence is a very unsafe rule by which to try questions of constitutional law, and precedents are not infallible guides toward liberty and the rights of man.

Without any law to authorize it, slavery existed in England, and was sustained and perpetuated by popular opinion, universal custom, and the acquiescence of all departments of the government as well as by the subjects of its oppression. A few fearless champions of liberty struggled against the universal sentiment, and contended that, by the laws of England slavery could not exist in the kingdom; and though for years unable to obtain a hearing in any British court, the Sommersett case was finally tried in the Court of King's Bench in 1771, Lord Mansfield presiding, wherein that great and good man, after a long and patient hearing, declared that no law of England allowed or approved of slavery, and discharged the negro. And it was then judicially declared that no slave could breathe upon the soil of England, although slavery had up to that time existed for centuries, under the then existing laws. The laws were right, but the practice and public opinion were wrong.

It is said by the majority of the committee that "if the right of female citizens to suffrage is vested by the Constitution, that right can be established in the courts."

We respectfully submit that, with regard to the competency and qualification of electors for members of this House, the courts have no jurisdiction.

This House is the sole judge of the election return and qualification of its own members, (article 1, section 5, of Constitution;) and it is for the House alone to decide upon a contest, who are, and who are not, competent and qualified to vote. The judicial department cannot thus invade the prerogatives of the political department.

And it is therefore perfectly proper, in our opinion, for the House to pass a declaratory resolution, which would be an index to the action of the House, should the question be brought before it by a contest for a seat.

We, therefore, recommend to the House the adoption of the following resolution:

Resolved, by the House of Representatives, That the right of suffrage is one of the inalienable rights of citizens of the United States, subject to regulation by the States, through equal and just laws.

That this right is included in the "priviliges of citizens of the United States," which are guaranteed by section 1 of article 14 of amendments to the Constitution of the United States; and that women citizens, who are otherwise qualified by the laws of the State where they reside, are competent voters for Representatives in Congress.

WM. LOUGHRIDGE.
BENJ. F. BUTLER,

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 23.

CLAIM OF THE STATE OF NEW HAMPSHIRE.

[To accompany H. Res. No. 226.]

JANUARY 30, 1871.—Ordered to be printed and recommitted to the Committee of Claims.

Mr. ELA, from the Committee of Claims, made the following

REPORT:

Late in the year 1863 the President of the United States issued a call for three hundred thousand men, to be raised prior to the 8th day of January, 1864. It was found, in the State of New Hampshire, that many would volunteer if they could have the bounties, which the Government proposed to pay in installments, advanced to them, to be left with their families, in addition to the bounties offered by the State and by the several towns and cities in the State. The governor of New Hampshire was interrogated by the officers of the several towns, to know if any arrangement could be made with the United States Government to this effect; and he at once made inquiries of the War Department to know, if the towns and cities of the State of New Hampshire would advance the bounties offered by the General Government, in installments, and take assignments therefor, whether the Government would pay the installments as they became due, to the State, for the towns and cities advancing them. The result was, that an agreement was made by the War Department, representing the Government of the United States, with the governor of the State of New Hampshire, representing the towns and cities of that State, by which it was promised, on the part of the Government, that if the towns and cities of New Hampshire would advance the bounties which the Government offered in installments, to the men who volunteered to fill their respective quotas, and took assignments from them of such bounties, the Government would pay all such bounties as the installments became due, to the State, for the benefit of the towns and cities that had advanced them.

Under this arrangement about three thousand men volunteered, and received in advance their bounties, to the amount of near $900,000, and made assignments to the towns and cities advancing them. Allotment-rolls, containing the names of all the volunteers who received this advance bounty from the towns, were forwarded to the Paymaster General of the Army at Washington, to be by him forwarded to the paymasters in the field, so as to prevent the possibility of double payment to the soldiers.

The agreement on the part of the Government is clearly shown by the following letters:

WAR DEPARTMENT, PROVOST MARSHAL GENERAL'S BUREAU,
Washington, D. C., November 3, 1863.

Your telegram to the Secretary of War, asking if "the State of New Hampshire, or the various towns, should pay in cash to each man mustered the amount of bounty offered by the General Government, and take an assignment of his claim for bounty, will the Government pay these bounties to the State or towns instead?" has been received.

The proposition will be entertained, and the bounty paid to the State or towns, as proposed by you, for every recruit raised under the present call, and duly mustered into the United States service and delivered at the general rendezvous.

JAMES B. FRY,
Provost Marshal General.

His Excellency Governor GILMORE,
Concord, New Hampshire.

Official copy:

NATT. HEAD,
Adjutant General of New Hampshire.

WAR DEPARTMENT, PROVOST MARSHAL GENERAL'S OFFICE,
Washington, D. C., December 9, 1863.

SIR: I have the honor to inclose herewith memoranda of the proposition submitted to me, for refunding to the towns in New Hampshire the amount of bounty advanced to recruits under the present call of the President, and to state that the plan proposed is approved.

Orders will be issued immediately to the United States disbursing officer at Concord to pay to the State treasurer the first installment of the bounty due, and the Paymaster General will be requested to provide for the payment of the future installments as they become due.

I am, sir, very respectfully, your obedient servant,

JAMES B. FRY,
Provost Marshal General.

His Excellency J. A. GILMORE,
Governor of New Hampshire, Concord, N. H.

Official copy:

NATT. HEAD,
Adjutant General of New Hampshire.

WAR DEPARTMENT, *Washington City, December* 15, 1863.

SIR: The Secretary of War directs me to acknowledge the receipt of your communication of the 7th instant requesting that the paymasters who shall pay the New Hampshire regiments on the regular muster to be made on the last day of this month, may be ordered to retain the bounty or premium due the volunteers mustered in in that State since the 1st of November, 1863, for the purpose of securing to the various counties of the State the reimbursement of the United States bounties and premiums advanced by them, in full, to all such volunteers.

In reply, I am directed to call your attention to the inclosed copy of letter of instruction to the Paymaster General, and to say that the Secretary is highly pleased that the energetic and patriotic efforts of the good people of New Hampshire, to furnish their quota within the time prescribed, have met with such satisfactory results.

I have the honor to be, sir, very respectfully, your obedient servant,

ED. R. S. CANBY,
Brigadier General, Assistant Adjutant General.

His Excellency J. A. GILMORE,
Governor of New Hampshire, Concord, N. H.

I certify that the above is a true copy.

NATT. HEAD,
Adjutant General State of New Hampshire.

WAR DEPARTMENT, *Washington City, December* 15, 1863.

SIR: The Secretary of War directs that instructions be given the paymasters of the Army who may pay the New Hampshire regiments on the rolls for the muster of December 31, 1863, to pay no bounties or premiums to the volunteers mustered into the

service in that State since November 1, 1863. This direction is given in furtherance of the arrangement made with the governor of New Hampshire by the Provost Marshal General, under the authority of the Secretary of War, which is fully explained by the correspondence heretofore furnished you by the Provost Marshal General and by the accompanying copy of the governor's letter of the 7th instant.

Very respectfully, sir, your obedient servant,

ED. R. S. CANBY,
Brigadier General, Assistant Adjutant General.

Official:
C. T. CHRISTENSEN,
Assistant Adjutant General.

The PAYMASTER GENERAL, *Washington, D. C.*

Official copy:

NATT. HEAD,
Adjutant General of New Hampshire.

WAR DEPARTMENT, *Washington City, January* 16, 1864.

The agreement announced in telegram from Provost Marshal General, dated November 5, to the effect that if the State of New Hampshire or the towns should pay the bounties offered by the United States, and take an assignment from the recruit, that the Government would pay these bounties to the State or towns instead of to the men, will be carried out in good faith, and General Hinks will receive orders accordingly. Experience has developed difficulties in this connection which were not foreseen by the Department, and the arrangement will terminate on the 15th of February next.

EDWIN M. STANTON,
Secretary of War.

Official:

H. R. RATHBONE,
Brevet Colonel United States Army, in Charge Enrollment Branch.

Governor J. A. GILMORE,
Concord, New Hampshire.

WAR DEPARTMENT, PROVOST MARSHAL GENERAL'S BUREAU,
Washington, D. C., January 18, 1864.

SIR: In reply to your letter of the 12th instant, to the Secretary of War, referred by him to this office, in relation to the repayment to the towns of your State, of the United States bounties by them advanced in cash to the recruits from New Hampshire, and to your telegram upon the same subject, I have the honor to inclose herewith copy of instructions this day issued to Brigadier General Hinks, superintendent volunteer recruiting service for New Hampshire.

Please see telegram upon this subject of the 16th instant, to you from the Secretary of War.

I am, sir, very respectfully, your obedient servant,

JAMES B. FRY,
Provost Marshal General.

Official:

H. R. RATHBONE,
Brevet Colonel United States Army, in Charge Enrollment Branch.

His Excellency J. A. GILMORE,
Governor of New Hampshire.

WAR DEPARTMENT,
PROVOST MARSHAL GENERAL'S BUREAU,
Washington, D. C., January 18, 1864.

GENERAL: I am instructed by the Provost Marshal General to inform you that your circular of January 5, 1864, is not entirely approved, and to direct you to modify the first clause thereof so as to read as follows:

"The United States will repay by installments to the cities and towns of this State so much of the premium and bounties offered by the General Government to the volunteers under the President's call of October 17, 1863, as may have been actually advanced and paid in cash to or for each volunteer by said cities and towns, provided the recruit, in each case, for whom such amount was paid shall have made, or shall make, an assignment to the town of the amounts so paid. The bounties to be repaid to the towns in installments, as established by existing orders."

The Provost Marshal General further directs that you make such modifications of

the remainder of the circular, and of all papers dependent upon it, as may be required to conform them to the changes herein above ordered.

I am, General, very respectfully, your obedient servant,

GEO. D. RUGGLES,
Assistant Adjutant General.

Official:

H. R. RATHBONE,
Brevet Colonel United States Army, in Charge of Enrollment Branch.

Brigadier General E. W. HINKS,
Acting Assistant Provost Marshal General for New Hampshire, Concord, N. H.

Under this arrangement the first installments of these bounties were paid to the State of New Hampshire by the Government, at the time the volunteers were mustered into the service, and other amounts were sent to the State during the war as the installments became due. After the close of the war a settlement of these unadjusted claims was commenced with the officer of the Second Auditor of the Treasury, when it was found that some $40,000 were stopped from payment for the following reasons:

First, where payments were made to soldiers in the field as assigned bounties accrued. Second, for payments made to soldiers on muster-out. Third, for payments made to heirs of deceased soldiers. The following letter from the Second Comptroller of the Treasury explains why the accounting officers of the Treasury have not settled this class of claims in accordance with the agreement made by the War Department with the governor of the State:

TREASURY DEPARTMENT,
SECOND COMPTROLLER'S OFFICE, *April* 22, 1870.

DEAR SIR: In reply to your inquiry of this date I have to state that by the bounty laws the soldier, or beneficiary, could not alienate or devise the bounty, an order of descent having been prescribed by law. Whenever, therefore, a bounty had been paid by inadvertence to the soldier, or his heirs, by the disbursing or accounting officers, ignoring the claim of the State (of New Hampshire) founded on her advance and the soldier's transfer of his bounty, with the concurrence of the War Department, there was no law by which it could be recovered, nor any legal authority to credit the State with the amount.

I am, very respectfully, yours,

G. M. BROADHEAD, *Comptroller.*

Hon. JACOB H. ELA,
House of Representatives.

Congress is now asked for such legislation as will enable the accounting officers of the Treasury to adjust and pay to the State of New Hampshire, for the towns and cities of that State, the amount which may be found due under the agreement made with the governor of the State by the Provost Marshal General of the United States, acting under the direction and authority of the Secretary of War. The towns and cities in New Hampshire advanced the bounties in good faith, supposing they were dealing with the agent of the Government, who had full power and authority to make the agreement and to carry it out. The towns understood that they took only the risk of such losses as came from desertion, and relied upon the honor and integrity of the Government for the rest, and furnished the troops with such promptness as to receive the thanks of the Secretary of War. Justice would seem now to require that the errors of the United States Pay Department, which was under the control of the War Department, should not result in loss to the towns and cities of the State of New Hampshire, which had no control over it. They carried out the agreement on their part in good faith, and with an undoubting belief that the Government would do the same.

To effect this we recommend the passage of the accompanying joint resolution.

O

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 24.

WILLIAM McGARRAHAN.

FEBRUARY 1, 1871.—Recommitted to the Committee on the Judiciary and ordered to be printed.

Mr. PETERS, from the Committee on the Judiciary, made the following

REPORT.

The Committee on the Judiciary, to whom was referred the memorial of William McGarrahan, praying the passage of the following bill—

That the tract of land known as the Panoche Grande Rancho, in the State of California, granted by Governor Manuel Micheltorena, in the State of California, A. D. 1844, *and by said Gomez conveyed to William McGarrahan on the 22d day of December,* 1857, *surveyed by the United States surveyor general for California, and approved by him September* 11, 1862, *and which survey is now on file in the General Land Office, be, and the same is in all respects hereby, fully confirmed to said William McGarrahan, upon this condition, however, that the said McGarrahan shall, within twelve months after the passage of this act, pay into the Treasury of the United States the sum of* $1 25 *per acre for the land embraced in the said survey—*

submit the following report:

As the claimant invokes the aid of Congress to enable him to obtain possession of certain lands, the question arises, assuming that Congress has control of the subject, whether he has established such a claim as would justify the special legislation desired. To arrive at a correct conclusion on this question, it may be advisable to present a brief history of the case.

R. C. Hopkins, keeper of the archives of the former Mexican government of California, in his testimony, in speaking of the expediente (record) of V. P. Gomez, the grantor to the present claimant, says:

"This expediente consists of petition of Gomez to Governor Micheltorena, dated March 13, 1844, accompanied by map; marginal order of governor, dated March 14, 1844; order of secretary of state, Jimeno, referring the matter to the justice of the peace of San Juan, also dated March 14, 1844, and the favorable report of José Antonio Rodriguez, justice of San Juan, dated March 20, 1844; and here the expediente stops."

This petition was for three square leagues of land called "Panoche Grande." He further states that he searched diligently through the archives for evidence of the Gomez grant, but nothing could be found save the unfinished expediente.

On March 3, 1851, the Congress of the United States passed an "act to ascertain and settle private land claims in the State of California," &c., and providing for the appointment of three land commissioners to pass upon them, with a right of appeal to the United States district court for California, and also to the United States Supreme Court.

On the 9th of February, 1853, Gomez, by P. Ord, his attorney, presented to the said land commissioners a petition for the confirmation of his claim called "Panoche Grande," of the extent of *four* square leagues, and stated that the grant had been made by the Mexican governor. He filed no documentary evidence of title, stating that the title papers were

destroyed during the occupation of Monterey by the United States forces. In his petition to the land commissioners he claimed *four* square leagues, while in the one to the Mexican governor he asked for only *three*. But there was no record evidence that the Mexican governor made Gomez any grant whatever. He endeavored before the land commission to supply the deficiency of documentary title by parol evidence. Four witnesses were called before the land commission to testify to the existence of the grant. José Abrego testified that in the year 1845 Gomez showed him certain title papers to the land called "La Panoche." Oscar de Grand Barque testified that in the fall of 1845 Gomez offered to sell him a tract of land which he called "Panoche Grande," or something like it, and showed him a map and document which, he said, was a title to the land. J. L. Ord, brother of P. Ord, attorney for Gomez, says that in January, 1847, some old papers found in the custom-house at Monterey were destroyed. José Castro's testimony is to the same effect. The board of land commissioners, after hearing all the testimony, rejected the claim.

Gomez, through P. Ord, his attorney, appealed the case to the United States district court for the northern district of California, and the case was afterward transferred to the southern district, where it more properly belonged. While this appeal was pending, Ord was appointed United States district attorney for the district last mentioned, and his oath of office and good conscience required him to protect the United States against all interests adverse thereto. But in the Gomez claim he betrayed the trust committed to him by the Government, and covertly continued the attorney of Gomez, receiving from him a deed of half of the land in question. This conveyance, for the nominal sum of one dollar, is dated November 24, 1856, while Ord was United States district attorney, and without the shadow of a doubt was the consideration for his extraordinary conduct in securing the confirmation of the alleged grant. The letter of the clerk of the northern district to the clerk of the southern district, inclosing the papers, with the order of transfer, is dated June 1, 1857. It could not have reached Monterey before June 3, probably June 4. On June 5, 1857, Ord procured a brother lawyer to move the United States district court held at Monterey for the southern district of California to reverse the decision of the land commissioners, and confirm the grant. In reply to which motion Ord stated that the United States had no objection to the confirmation. On this statement alone, without trial or examination, the alleged grant was confirmed, but no decree of confirmation was then prepared.

On the 7th of January following, Ord filed a decree which was signed by the court, and entered *nunc pro tunc*, as of the first mentioned date, reciting that having omitted to sign and enter a decree then, it be done *now* for *then*, which confirmed *three* square leagues of land; and on the following 8th of February he procured another decree covering the same land, with an additional square league. This decree was filed also *nunc pro tunc*.

On December 22, 1857, the petitioner, McGarrahan, for the sum of eleven hundred dollars, purchased the interest of Gomez, and thus Ord and McGarrahan became tenants in common in the alleged grant as confirmed. At the time of this transfer there had been no decree entered; it was only "ordered to be entered." It was not entered as amended until February 8, 1858.

Under the law of Congress of March 3, 1851, no patent for a Mexican land grant could issue until final confirmation. This could be had in two ways: First. By the decision of the United States Supreme Court,

accompanied by a mandamus to the district court to carry out the decree, and an order for the survey of the land. Second. Congress authorized the Attorney General in any land grant case where the Government had taken an appeal to the district or Supreme Court, to examine the record, and when satisfied that the claim was legal to dismiss the appeal, and then the inferior court could have the land surveyed, and thus the claimant could get his patent.

In 1858 the Government sent the Hon. E. M. Stanton to California to appeal to the Supreme Court of the United States all cases decided adversely to the Government, and to look after land cases generally. Mr. Stanton, hearing of the fraud of Ord, filed a motion to set aside the decree in the Gomez case for such fraud, and to grant a new trial. This motion was never finally disposed of. Judge Ogier up to that time was not aware of the interest which said Ord had in the claim, Ord not having recorded the deed received from Gomez.

From December 22, 1857, when claimant purchased of Gomez, he and Ord became joint owners. At that time there had been an order for a decree in favor of the claim, but still a survey of the land was required in order to obtain a patent, which could not be had except upon final confirmation. It is clearly evident that a conspiracy was formed, through the contrivance of Ord, to effect a formal appeal to the Supreme Court of the United States in order to have the same there docketed and dismissed without attracting the attention of the United States and others adversely interested. For this purpose a paper, purporting to be the granting of an appeal in this and several other cases, was, without any authority of the court, placed among its files. This paper, purporting to allow an appeal, and in the handwriting of Ord, is pretended by him to haye been presented to the court by Colonel Kewen, a member of the California bar, while Kewen's testimony has never been obtained upon this point, and while Ord in his affidavit (which is a part of the testimony in this case) admits of his own knowledge that he knows nothing of it. The clerk of the court and the presiding judge both positively assert that no appeal up to that time was ever allowed, signed, or entered of record.

As the next step in carrying out the purposes of these parties, McGarrahan applied by letter, dated September 2, 1858, to the clerk of the court for a transcript of the record for the purpose of carrying the case to the Supreme Court of the United States. A correct transcript was sent, containing no statement of an appeal, as none had been granted, but containing among other papers the motion made by Stanton as before described. This was returned by McGarrahan to the clerk with a special request to send to him a transcript showing that an appeal had been allowed, and that he would find it among the papers, and also to omit the motion as made by Stanton, and to make it *regardless of expense;* in response to which a deputy clerk, without the knowledge of the court, made out to him what purported to be a transcript of the case, and made in accordance with his wishes, placing therein an appeal as if allowed, and omitting the motion of Stanton.

The petitioner's friends and attorneys carried this transcript to Jeremiah S. Black, then Attorney General of the United States, and endeavored to persuade him to allow the decree of the United States district court to be confirmed. Mr. Black, although he had not yet learned the true status of the case in the California court, having had his suspicions excited from the complicity of Gomez in other land claims which had proved fraudulent, utterly refused to comply with the proposition. Thereupon petitioner went into the Supreme Court of the United States.

One of the rules of this court is, that when an appellant neglects to file his record within twenty days of the next term, the appellee may file the transcript, and upon the meeting of the court the case, on his motion, shall be dismissed for want of prosecution. This the petitioner did, and the court dismissed the appeal, confirmed the decree below, and granted a mandamus to the district court to carry out the same and have the lands surveyed, no person appearing for the United States.

When the mandamus came to be heard in the district court Judge Ogier had it filed and continued, alleging that the Supreme Court must have been imposed upon, as he had never granted an appeal in the case.

The Attorney General, hearing of the falsity of the transcript imposed on the Supreme Court in this case, moved the court to rescind its former action, and that a mandamus be issued to the judge of the United States district court to certify whether any appeal had been taken, and directing the clerk to send up a true transcript of the case. These motions were granted.

The Supreme Court, on inspection and proof of the returns to the mandamus, set aside its previous order of confirmation, (23 Howard, p. 338,) saying, "It is a delicate and most unwelcome task which we are now performing, but it must be done in order that violated justice may be vindicated, and official purity of conduct in our courts may be preserved and be unsuspected."

When Judge Ogier learned of the fraud which had been practiced upon him he vacated his decree of confirmation, commenting with great severity upon the conduct of the party who had been guilty of the imposition. This step left the claim as it came from the commissioners—decided for the United States.

In the spring of 1862 Judge Ogier died, and Judge Haight was appointed his successor. The claimant, McGarrahan, moved to set aside Judge Ogier's vacating order, on the ground that as an appeal had been granted by the district court no decree could be changed after the term at which it had been allowed. Judge Haight granted this motion August 4, 1862; but censured severely the conduct of P. Ord, district attorney, declaring it to be a "gross case of fraud," and stated that it was not surprising that his predecessor, Judge Ogier, had, on learning the facts, set aside the decree of confirmation.

At the same term, August 25, 1862, Judge Haight granted an appeal from this decision to the Supreme Court of the United States.

December 3, 1862, Judge Haight set aside this allowance of an appeal, upon the mistaken theory that he had no right to have allowed the appeal. Before this, on the 22d of September, 1862, Attorney General Bates directed the district attorney to take an appeal from Judge Haight's decision to the Supreme Court and send up the record.

Mr. Wheeler, clerk of the court, would neither make out a transcript of the case nor permit any one else to have access to the records to perform that duty.

The claimant applied for an injunction to restrain the Attorney General from getting a record of the case, which application was, however, refused.

For more than a year the efforts of the Attorney General to obtain a transcript of the case were unavailing. Finally, the attention of the district attorney being called by the Attorney General to an act of Congress which allows the district attorney himself to make up such a record in certain cases, the necessary transcript was obtained.

The case having come before the Supreme Court under this law the claimant's attorneys moved to dismiss the appeal, on the ground that

more than five years had elapsed since the decree was pronounced; which motion was overruled. The decision of the court will be found in 1 Wallace, page 702, where the court says: "In view of the whole case our conclusion is, that the motion to dismiss the appeal must be overruled. The effect of the motion, if granted, would be to leave this decree below in full force and unreversed. That is a result we are not prepared to sanction."

The case was then set down for hearing on its merits. The decision of the court rejecting the claim will be found in 3 Wallace, page 773.

As to the judgment of the Supreme Court on the merits of the case, we have only to say that it is in accord with every decision concerning Mexican land grants; that if this case had never been before that court at all, but stood entirely on its merits, the decision must be adverse to the claimant, as it always has been. Hence, when Judge Ogier set aside the decree procured by the fraud of Ord, and set the case for trial, the claimant never made any demand for trial upon the case. He rested until Judge Ogier died, and Judge Haight was appointed his successor, and then came into court, not to seek a trial on his *rights*, but to take advantage of a technicality and avoid submitting the case on its *merits*.

Attorney-General Bates on this point says: "The United States only seek to secure what the claim has never been subjected to—a fair judicial hearing. If that is allowed, we expect to show that the claim is as fraudulent and illegal as the means that have been used to screen it from investigation." The trial of the case before the land commission was one of the first that was had under the law to settle titles protected by the Mexican treaty. The commissioners had not learned the extent of perjury and forgery which was so commonly afterward attempted to be practiced upon them, nor had they become acquainted with the true character of Gomez. But the case has been finally decided by the Supreme Court of the land, and decided upon all the law and the evidence, upon full transcripts and upon full hearing, and the claim has been unanimously rejected.

During the time that claimant was preventing the Attorney General from obtaining a transcript upon which to appeal the case from Judge Haight's decision, he was using extraordinary exertions to obtain a patent for the land from the Interior Department. It seems that the effort was to obtain this before the Supreme Court could get the case again upon its docket.

This plan nearly succeeded. Secretary Smith, of the Interior Department, under date December 29, 1862, says: "The only questions to be decided are, 'has the grant been confirmed by the decree of the proper court and are there any legal proceedings pending to reverse or set aside that decision?' Upon both of these questions it appears to us the answer must be in favor of the claimant." Further, that "the survey is but *prima facie* evidence of true location, and a patent will be but *prima facie* evidence of title," and "should conflicting claims arise, the parties cannot be precluded by a patent," &c.

The Secretary could not have known that Judge Haight had allowed an appeal to the United States Supreme Court, August 4, 1862, and that the Attorney General had ordered the transcript for that purpose, September 12, 1862, for he admits that the subject is one exclusively for the courts and that their action would bind the Department.

Secretary Usher, a few months afterward, and under the same misapprehension, decided that the action of his predecessor was binding upon him, and that such was the precedent and rule of the Department. He, too, advised that the patent should, by way of greater caution, contain

a provision that the description should be *prima facie* evidence only of the true location of the land granted, to be modified or avoided in that respect, if the same should be found to be erroneous.

This last ruling was made March 4, 1863. March 13, 1863, Attorney General Bates notified Secretary Usher that he intended to have the case brought before the Supreme Court for review. Upon which the Acting Secretary directed the Commissioner of the General Land Office to suspend the execution of a patent in the case until further orders.

The petitioner claims that President Lincoln also recognized his alleged rights.

The Honorable D. E. Sickles, "as one of the parties interested in the grant claimed by William McGarrahan and his associates," says in a letter dated January 22, 1867, that in the spring of 1864 he called upon the President for an order directing the patent to issue, and that the President ordered it to be issued; "that it was thereupon engrossed and signed *ready for delivery, but was not delivered*, although promised to me (him) on a day named."

It is clear enough, from all the sources of evidence in the transaction, that it was the spring of 1863, and not 1864, which Mr. Sickles referred to.

It is evident enough that the Executive Department in all its branches was beset and importuned unremittingly in behalf of the owners of the Gomez or McGarrahan claim.

In answer, however, to this parade of executive action and opinion, let it be borne in mind that there is no evidence that there was any knowledge upon the part of such parties that ulterior proceedings were pending or to be had in the courts; that in the patent as draughted the caution was used to insert the important clauses that the survey under which it was draughted should be *prima facie* evidence only of the true location of the land granted, and that "it should not affect the interests of third persons," while the claimant now asks for a confirmation without any such conditions.

Let it be remembered, further, that all the Attorney Generals in whose time of office this claim has appeared have most vigorously and earnestly denounced it, and as soon as the first notice came from the Attorney General's office to the executive branches all executive action has ceased, in order that the Supreme Court could determine the question, which long ago has been done.

Considerable controversy has arisen whether in fact a patent for this grant, which was prepared at the General Land Office, was ever executed. While, as hereinafter stated, the committee do not deem this to be an essential question at all, it may deserve some attention in this report. There is an unexecuted patent in the Land Office which has never been by anybody signed.

The question is hardly raised that any other one was ever made, but the proposition is intimated that this one has been tampered with by a subtraction of its last page, and the substitution of a new one.

If such a thing has occurred, no theory is started as to when, or how, or by whom such a thing has been done. Such a proposition should be supported by evidence the most conclusive.

What is the evidence?

Mr. Sickles in a letter, and not as a witness, says it was signed by the President. He gives no circumstances; he makes a mistake in the year, and says he feels confirmed by the verbal assurance of Mr. Usher, showing that his own recollection was not strong about it, and Mr. Usher has never been called to say any such thing.

Mr. Sickles had in mind the principal fact, which was the engrossing of the patent, and probably not so much the details.

This was said in 1867; the patent was engrossed in March, 1863; but the statement of the petitioner's counsel, made at or about the date of the patent, would be more likely to be accurate, and he would not be likely to give away anything by confession.

R. H. Gellett, of counsel for petitioner, in his written argument to said Usher, dated June 23, 1863, uses these words, "Before the patent *was actually signed* the Attorney General requested that its issuance might be delayed, which was ordered by the Assistant Secretary."

Mr. Stoddard, who was in 1863 secretary to the President for signing patents, testifies in 1871 to signing a patent labelled "Panoche Grande," but knew nothing of its contents, or in whose handwriting it was, or of its particular character; has not had his recollection called to it from 1863 until 1871, though he has been in New York all that time; thought the cover and the ribbon through the cover looked somewhat differently. The committee were not much impressed with the statements of this witness.

W. H. Lowry, who was a clerk in the General Land Office till June 30, 1863, and was conversant of the making and recording this patent, testifies that it was never signed.

J. F. Stoek, who was a clerk under said Lowry in 1863, and who has remained in the General Land Office ever since, testifies that this uncompleted patent was drawn by him on the 13th or 14th day of March, A. D. 1863, and was never signed, and that it has never been out of the Land Office but twice since and then for the inspection of the Judiciary Committees of the House of Representatives; that the reason it was not signed and completed will be found in the following letters.

It will be noticed that while it was made on the 13th or 14th, there could have been no intervening time for its completion from the dates of the following correspondence:

The patent itself is dated March 14th, though patents were, as has been explained, dated sometimes a day ahead of the making.

DEPARTMENT OF THE INTERIOR,
Washington, March 13, 1863.

SIR: The Attorney General has notified this Department that he intends to have the case of the land claim of Vicente P. Gomez, known as the Panoche Grande, brought before the Supreme Court of the United States for review, for the purpose of testing the validity of the grant.

Under these circumstances you will suspend the execution and delivery of a patent, under the decision of this Department of the 4th instant, until further advised in the case by the Secretary.

I am, sir, very respectfully, your obedient servant,

W. T. OTTO,
Acting Secretary.

COMMISSIONER GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
Washington, March 14, 1863.

SIR: I have the honor to acknowledge the receipt of your letter of the 12th instant, requesting me to forbid the issuing of a patent for the tract of land in California called Panoche Grande, claimed by Vicente P. Gomez, and to inform you that, in accordance with your desire, I have directed the Commissioner of the General Land Office to suspend the issuing of a patent until further advised on the subject.

I am, sir, very respectfully, your obedient servant,

W. T. OTTO,
Acting Secretary.

HON. EDWARD BATES,
Attorney General of the United States.

The book in which the patent was recorded in the Land Office, as it stood originally and before its correction according to the fact, reads as if the patent had been signed by the President. This is clearly explained by uncontradicted testimony that it was, and until lately ever had been, a fashion of the Office to record the patent in full with the President's name before it was presented to him for his official signature. However irregular this would seem to be, there were certain conveniences about it which led to such a practice.

There is considerable other testimony of an important character, showing that the unexecuted patent was never signed by the President of the United States, and your committee are of opinion that it never was signed by him.

But supposing it was so signed, was it ever in other respects completed? There is no evidence that it was ever signed by the Recorder of the General Land Office, or that it was ever sealed; and the signing by such Recorder and the sealing were acts in order of time done after the patent was returned from the President of the United States; while, on the contrary, all the evidence, oral and written, tends conclusively to show that such subsequent acts have never been performed. The record before alluded to shows an omission of the recorder's signature. The letter-book of the Land Office shows no record of letters sent either to the President or recorder requesting their signatures, though a patent never goes without such letter, and the letters are recorded. Nor can the Recorder or the President's secretary find such letters to them on their files, or in their possession.

In any view, there can be no claim that this or any patent to this party was ever *delivered*. Sickles says, "*but was not delivered.*" It would be strange indeed if McGarrahan had got a delivery in 1863, and should not know it till 1870! It is too late now to start the pretense that there was such a thing, actual or constructive.

There are deducible from these statements the following propositions:

1. That if there had been a delivery, then the land may have become vested in the patentee, and he needs no legislative aid or confirmation, but can find all his rights in the courts. He should seek his remedies in a judicial tribunal.

2. If not delivered, then it matters not whether the patent was formally completed or not, or to what extent it was completed. It remained the property of the United States.

3. But whether completed or not, or even delivered or not, if the petitioner can avail himself of the land claimed only by congressional action, and the claim is tainted with fraud, in such case he should be denied.

Inasmuch as the patent was suspended, and the record contemporaneously made would be an incorrect one, it has been cancelled by an indorsement by the order of the late Secretary of the Interior in the following words:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
July 25, 1870.

This record, from pages 312 to 321, inclusive, was made in accordance with the custom at the time, in anticipation of the original being submitted to the officers whose duty it is, under the law, to sign land patents, but an order dated March 13, 1863, having been received from the Acting Secretary of the Interior, to "suspend the execution and delivery of the patent under the decision of" the "Department of the 4th" of March, 1863, "until further advised in the case by the Secretary," the form of patent which had been prepared, and from which the aforesaid record was made, was not submitted for signature, and has never been dated, signed, nor delivered.

JOS. S. WILSON, *Commissioner.*

J. N. GRANGER, *Recorder.*

The same thing has been done in other cases. Where can there be any impropriety or want of correctness in an annotation like this? Does the petitioner desire the accidental advantages of a false record, and denounce honest and sworn officials for their endeavors to have all the facts fairly presented and perfectly understood? It would seem as if a cry were raised about these immaterial matters to withdraw attention from the other, and, as far as the claimants are concerned, indispensable parts of their case.

The petitioner persistently claims that he has at least shown some steps taken by Gomez in pursuance of an intention, in 1844, to obtain a grant, and that the record evidence in that direction, to the extent named in the beginning of this report, would constitute a "property" within the language of the treaty with Mexico.

If such a claim had not been abandoned, lying dormant from 1844 until 1853, when the agricultural land began to be considered as valuable for its minerals, and if the case had not been repudiated by the proper judicial tribunal of the country, and further, if the owner of the claim had not been fully estopped by the magnitude of fraud, by which it has been beset in the courts of California, and if it was at this time a fair and open question, the committee find no difficulty in arriving at the conclusion that the position taken is unwarrantable.

The treaty was ratified May 30, 1848. In article 8, page 129, United States Statutes, 9 vol., this provision occurs: "In the said Territories *property* of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners the heirs of these and all Mexicans who may hereafter acquire said property by contract, shall enjoy, with regard to it guarantees equally ample as if the same belonged to citizens of the United States."

This is the only section under which any Mexican or his assignee could claim any interest. The property of Mexicans and Americans was to be protected alike. The sole object of the treaty was to *protect* property, not to *create* it, or add to it in any way.

Congress, in its act of March 3, 1851, section 11, after creating a board of land commissioners, before whom claims for Mexican lands should be submitted, enacted "that the commissioners herein provided for, and the district and supreme courts in deciding on the validity of any claim brought before them under the provisions of this act, shall be governed by the treaty of Guadalupe Hidalgo, the law of nations, the laws, usages and customs of the government from which the claim is derived, the principles of equity, and the decisions of the Supreme Court of the United States, so far as they are applicable."

Our Government in good faith fulfilled the obligations of this treaty. The records of the different tribunals of the United States show how fully that stipulation was enforced.

The treaty protects "*property*." This word is used in its common meaning and acceptation. It does not include inchoate equities or imperfect claims, but perfected rights. It was property "*now belonging* to Mexicans." This was in May 30, 1848. It was not what status they might subsequently acquire as to property, but the limitation was on their right at the date of the treaty.

Congress put a construction upon this section. It provided that the commissioners and the courts, in deciding land claims, should be governed by the "usages and customs of the Mexican government respecting them." What are these usages and customs?

R. C. Hopkins, keeper of Mexican archives, in his evidence, describes fully the manner in which the Mexican archives were kept by that gov-

ernment, as shown by the originals on file in the surveyor general's office. He states that the Mexican records of land grants consists of the expediente, or record of proceedings had in procuring the grant. This record was the petition to the governor, the reference to the alcalde to investigate the facts and ascertain if the land was in a condition to be granted under the laws of colonization, and if the petitioner was worthy to receive the land, and this was accompanied by a map.

When the governor was satisfied of the condition of the land and character of petitioner, he made a decree or order, &c. In case he granted the same, he directed a "titulo" or formal title deed to be made out and delivered to the grantee for his security, and a copy of this "titulo" was attached to the expediente, and this only required the approval of the departmental assembly. Next was the books of record, "Toma de Razon," which were required by the regulations of November 21, 1828, to be kept in the secretary's office. The grant must be recorded therein.

An original index, or list of expedientes, called the Jimeno Index, and the approvals of grants as found in the journals of the departmental assembly, and grants, are often mentioned in official and private correspondence on file in the archives.

Mr. Hopkins continues: "There are on file in the archives 579 expedientes, called complete, because the proceedings shown therein are prosecuted until the grant is either given or refused." He further shows that "said complete grants were all recorded, numbered, and placed in the archives."

He further says: "Besides these 579 so-called complete expedientes, there are 314 called incomplete, because they are not prosecuted until the grant is either given or refused, but were, from some cause, abandoned at different stages of the proceedings before they had reached the point where the governor either made or rejected the grant. In some of these expedientes there is only found the petition; others go so far as the marginal order of the governor requiring report to be made; and some go so far as the report of the justice of the peace or other officer in relation to the condition of the land."

He continues: "The incomplete expedientes are not found entered upon any original index or book of record in the archives, nor are they numbered, save in pencil, and this was done by clerks in the office of the United States surveyor general, about the year 1853, when an index of all the expedientes, complete and incomplete, was compiled for the use of that office. So that as to those unfinished expedientes there is no reference in the archives outside of the documents themselves."

Gomez petitioned for a grant on the 13th of March, 1844, as is claimed, for agricultural purposes. The Americans took possession of the country in 1846. For nine years he failed to prosecute his petition, nor had he possession of the land. All the circumstances tend strongly to show an abandonment of his application. There are on file 314 similar incomplete cases. To confirm this incomplete application would not be in accordance with the laws, usages, and customs of Mexico.

In the case of The United States *vs.* Noe, 23 Howard, 312, the court decided that "where a grantee, under the colonization laws, suffered eleven years to elapse without taking any steps toward the completion of his title, or the fulfillment of the obligations imposed, and there was no expediente in the archives to show the segregation of the land from the public domain, nor any delivery of possession or other assertion of right, he will be deemed to have abandoned the grant."

Nine years, 1844 to 1853, have elapsed without Gomez taking any

steps toward the completion of his title. There is no record of any grant to Gomez in the archives, nor do the archives show any segregation of the land from the public domain; nor was possession ever delivered to Gomez of the land; nor did he ever assert any right thereto during said time.

The Mexican Congress, on the 18th day of August, 1824, (and the regulations thereunder of November 21, 1828,) conferred upon its governors the only power that they had to make grants of the public domain of that country.

Grants, like the one set up in this case, were made, containing the following express conditions:

1st. "That they should be approved by the departmental assembly; that the land should be appropriated to use and cultivation."

2d. "That the grantee should solicit from the proper judge juridical possession, by which the boundaries should be marked by the proper landmarks."

3d. "That the grant should be recorded in the respective books; that a copy should be deposited in the archives, and a copy be delivered to the party interested for his security and other uses." (Rockwell's Mexican and Spanish Law, p. 453.)

There is no evidence that any of these conditions were either performed or undertaken to be performed during the continuance of the premises under Mexican dominion.

To confirm this grant would be to abrogate every requirement of the Mexican Congress, and the regulations thereunder.

Gomez claimed that this grant was made to him in 1844 by Governor Micheltorena.

During this year Manuel Jimeno was secretary of the governor. He is the same officer to whom the governor referred the petition of Gomez.

Jimeno kept a complete and perfect record, called "Jimeno's Index," of all the grants made during that year, (of 1844,) and there is no record in it of any such grant as the Gomez grant.

In the celebrated Limantour case Jimeno was called as a witness by the United States, and proved that there was no record ever made of said alleged grant, which enabled the Government to defeat this gigantic swindle.

There was also a book kept by the Mexican authorities, showing all the land grants made for a number of years, including the year 1844, known as the "Toma de Razon," in which land grants made by Governor Micheltorena are more particularly described. No copy of the alleged Gomez grant can be found in it.

There is not found on the journals of departmental assembly of Mexico any approval of the Gomez grant, or any reference to the same. Nor is it mentioned in the official and private correspondence on file in the archives. (See evidence of R. C. Hopkins.)

In Romero *vs.* The United States, 1 Wall. 721, the Supreme Court decides that "The Mexican record books called the 'Toma de Razon,' and the 'Index of Jimeno,' are public records, which this court may consult, though not put in evidence below."

The court places great value upon these Mexican books of record. (See 22 How., 405; Wall., 742; 1 Black, 349.)

The absence of the alleged Gomez grant from the "Toma de Razon," the Mexican record of land grants for 1844, from "Jimeno's Index" for the same year, kept by the secretary of Governor Micheltorena, no approval of the grant to be found of record in the journals of the departmental

assembly, and no copy of said alleged grant to be found in the Mexican archives, nor any mention of it in any of the official correspondence.

It may be worth while at this place to add a word upon the question of how far a possession under a grant was necessary to its validity. It has been urged that the land commissioners erred in their view of the law in the Gomez claim. We do not admit such an error. While the decision in the Frémont case, so much relied on, admits some departure from the rule, it does not abrogate it.

One of the conditions of every Mexican grant was, that "when the title shall be confirmed, he (the grantee) shall demand of the respective judge judicial possession of it, by which the boundaries shall be designated with the necessary landmarks."

This was necessary to segregate the grant from the public domain. No survey was made until the period of judicial possession. Under the colonization laws of Mexico, settlement and cultivation were indispensable conditions of every grant. This judicial delivery of possession is akin to livery of seizin, and was actual possession made before witnesses. The Supreme Court of the United States decides "that when a doubt arises upon the meaning of a grant, as to the quantity ceded, reference may be had to the judicial *possession* delivered to the grantee." (U. S. *vs.* Pïco, 6 Wal., 536.) Hence we see the necessity of this possession in order to make certain the boundaries of grants.

Alvarado, the grantor of Frémont, was prevented from taking possession of his grant, located in a wild and unsettled part of the country, by hostile Indians. The Supreme Court simply say, that the failure to perform an *impossible condition* will not vitiate a grant. Some time since the Frémont case was decided, the Supreme Court of the United States, in Malarin vs. United States, 1 Wall., decided that "judicial *possession after execution* of the grant was essential to the investiture of the title." In the case of Graham vs. United States, 4 Wallace, it reaffirms that decision.

Another point which attracts the attention of the committee, and which we cannot forbear to comment upon as briefly as its importance will permit, is as to the true location of the alleged grant to Gomez.

In the early history of land claims in California, it was found that by means of false surveys, grants of agricultural lands were located upon valuable tracts of mineral lands. These surveys were privately made, at the instance of the claimant, and were sent to the General Land Office at Washington. Thus, it was only by a journey of thousands of miles, at great expense, that an opportunity of contesting the integrity of these surveys could be had by the settlers, or those whose rights were affected by them. To remedy this evil, an act was passed by Congress, June 14, 1860, making it the duty of the surveyor general to give notice for at least sixty days, (afterwards made ninety days,) in some newspaper published in vicinity, of every survey of lands lying in the district of California, the plat being retained for examination in his office at San Francisco, with leave to settlers and others in interest to question its correctness.

June 26, 1860, claimant made application to the surveyor general of California for a survey of the Panoche Grande.

The application was forwarded to the General Land Office. September 4, 1860, the Secretary of the Interior refused permission to make the survey. June 2, 1862, Congress passed a law providing for a private survey of land claimed under alleged grants in California, but making such surveys "*prima facie*" evidence only of the true location of the grant.

The claimant in this case caused a private survey of the alleged Gomez grant to be made under this act within a very few weeks after its passage, under his own personal supervision. It was made by E. H. Dyer, United States deputy surveyor, in July, 1862. Said Dyer testifies that "he did not make the survey from *his own judgment* as to where the grant should be located, but that he made it under the *direction of McGarrahan* and the general instructions of the office," (surveyor general's;) that he was wholly unfamiliar with the country and could not have recognized the boundaries from the papers alone, and that he made the survey in three or four days.

Sherman Day, present surveyor general of California, says "he is familiar with the district of country," &c., "that he became acquainted with it January, 1859; that in April, 1866, he surveyed the New Idria mine and the country about there; that the country about the mine is a series of rough and precipitous mountains and hills, intersected by deep cañons; that the greater portion of it is barren and unfitted for agricultural purposes; it is essentially a mineral region; that the rancho de los Aguilas (one of the boundaries of the alleged Gomez grant) is distant about twenty-four miles in an air line from said mines;" that "he could make a correct survey of the Gomez claim;" that "such a survey would locate it *adjoining the Real de los Aguilas rancho, and not less than thirteen or fourteen miles from the New Idria mines;*" that "it appears from the field notes in his office that the Dyer survey was made between the 24th and 28th of July, 1862;" that "the aggregate length of the exterior lines of the Dyer survey is thirty-six miles and a little over;" that "from his knowledge of the country and experience as a practical surveyor it would take at least a fortnight, and perhaps three weeks, to make the Dyer survey properly."

Laurens Upson, the late surveyor general of California, states that he knows the localities.

He repeats the same statement as Sherman Day about the mountainous character of the country; that he has visited the reduction works of the New Idria Company. He then refers to a map, and says it is prepared upon the application of parties in the surveyor general's office, and the standard and township lines of the public surveys projected upon it, as well as the lines of private land claims finally surveyed and confirmed, viz, ranches Panoche de San Juan y los Carrisolitus and Real de los Aguilas, and the lines and location of these ranches, correspond with the official corrected map of the survey of private land claims in California for the year 1866, and that the survey of Panoche Grande is correctly delineated on said map. He, too, makes the boundaries of the land claimed to be confirmed to Gomez, by the decree, to be sixteen miles distant from New Idria mines.

Cassimer Bielawski, a civil engineer and draughtsman in the surveyor general's office, under Surveyor General Beale, says that, as draughtsman, he made a plat or map of the Dyer survey in September, 1862, under the order of E. F. Beale, surveyor general; it was made from the field notes and data of Dyer's survey; that in examining the field notes and survey, from which he compiled the plat, he found that one-half of the corners of the exterior boundaries of said grant had not been established by the deputy surveyor, on the ground, and for this reason he wrote in pencil on the map, when finished, his remarks to that effect, and advised him (Beale) that the survey should not be approved. He then handed the plan to Mr. William McGarrahan, who submitted the same to Mr. Beale for inspection. Mr. Beale overruled his objections, and on the 11th day of September, 1862, approved the plat and survey.

The boundaries of the Gomez grant do not seem to have been given always alike.

In his petition to the governor, Gomez prays for a grant "north by Julian Ursua, *south by the serrania*, (*mountain range*,) east by the valley of the Tulares, and west by Francisco Arias, containing three square leagues.

In his petition to the land commissioners to confirm the same alleged grant, he bounds it: "North by the lands of Julian Ursua, *south by the lands of Francisco Arias*, west by the barren hills," (no eastern course given,) "of the extent of *four* square leagues."

Claimant purchased the undivided one-half of three square leagues, and his deed recites the boundaries as "being the same lands for which a decree of confirmation has been entered in favor of Gomez. This decree gives them, northerly by the lands of Julian Ursua; easterly by the valley of the Tulare; westerly by the lands of Francisco Arias, and southerly by the hills."

Claimant asks Congress to confirm to him the Dyer survey in all respects as the boundaries of the alleged grant. That makes the boundaries "north by Julian Ursua; westerly by the lands of Francisco Arias; east by the Tulare Valley, and south by the Santa Anna River."

It will be seen that the alleged grant to Gomez was of an agricultural tract, and for agricultural purposes, while petitioner's claim is now essentially upon lands valuable only for its minerals; that while the valleys in that country are the only fit spots for agriculture, he has chosen his location mostly upon a mountain nearly 5,000 feet above the level of the sea, and 3,000 feet and more above the surrounding valleys, taking his location in a grotesque form, so as to throw upon a small portion of valley what acres he had left, after using up the valuable hills; that, as surveyed by Dyer, he is a great many miles away from the neighbors upon whom his calls would adjoin him in all the descriptions which he has heretofore given.

But particular attention is due another position in this connection.

McGarrahan asks Congress to confirm his grant as located on the face of the earth by the survey of Dyer, while, under the act of 1862, such location would only be *prima facie* evidence, leaving other parties to contest it, if not correct; and while the alleged patent now in the Interior Office, whether finished or not, contains a provision that the description shall be *prima facie* evidence only of correctness, the petititoner asks that Congress shall make this survey to him final and conclusive. The petitioner does not ask for the land which he claims was granted to Gomez, but such as was granted to Gomez and *surveyed to him by the private survey under the law of* 1862, thereby asking from Congress what he would not have obtained had the patent in the Department of the Interior been fully finished and delivered to him.

A word upon matters somewhat personal may not be objectionable in this report. In view of the appeals which have been made to us in behalf of the claim of petitioner, it may not be improper to remark that while the claim is pushed nominally by, it does not belong exclusively to, Wm. McGarrahan.

It seems that a quicksilver mining company has been erected to work upon this grant, incorporated by the laws of the State of New York, with a capital stock of ten millions dollars, but whether owned by few or many is a matter which should have no claim upon either our prejudices or sympathies.

The greatest latitude of argument was indulged in before the committee toward the United States Supreme Court, and especially in

regard to the conduct of several of the Attorneys General. The committee can see nothing in the official services of these gentlemen, upon whom much aspersion was heaped, which was not in accordance with the strictest integrity and a conscientious desire to perform, without fear or favor, the trusts which fell to them.

The committee do not consider it necessary to determine what rights upon the premises in question may or not belong to the company called the New Idria. Such a question has not been before us, only as incidentally bearing upon the main question as to the rights of the petitioner. While their claim is for 480 acres only, the petitioner's claim is for upward of 17,000 acres. The New Idria claim that they are the representatives of three-quarter sections, taken by settlers and miners, under the act passed by Congress on July 26, 1866. They claim no favors of special legislation, and ask only such rights as they allege belong to them under the general laws.

They will take their chances before the Departments and in the courts under the provision of the laws, as open to them as to all others, and merely ask that the general statutes shall not be, as to them and others, repealed or modified by invidious special legislation.

From the foregoing review, it seems there never has been a judicial decision in favor of the title of Gomez.

It is said, besure, that the land commissioners decided against the claim upon the law, and for the claim upon the facts, and that the decision of the question of law was erroneous.

It is enough for the present purpose that the decision upon the law and facts was rendered against Gomez.

If he was confident upon the facts at the trial before the land commissioners, neither he nor his successors have been willing to rely upon them afterward, but have constantly trusted to a pretended right founded on the merest technicality.

If the petitioner has sufficient proof of facts upon which to ask Congress for relief, why so unwilling to stand upon such proof before the courts?

Well has Attorney General Black said:

> The struggle, from the beginning of this case to the end of it, as far as I know anything about it, was a struggle upon the one side to get the case into court—to some court of competent jurisdiction, where it would be impartially and *fairly heard*—and upon the other side the struggle was to prevent it from being heard at all.

The committee find that there never was a completed grant to Gomez; that his witnesses are not trustworthy; that he was himself, in sustaining other grants, guilty of fraud and forgery; that the case was attempted to be put through the courts by fraud and gross deception; that the controversy has been fairly brought before the highest tribunal in the land upon its merits, and been fairly and properly decided; that it would be unwise in every view to reopen the litigation; that its effect would be to encourage and awaken numerous other defeated claimants of grants; that it would weaken the public faith in titles obtained under our treaty stipulations, and spread alarm among the multitude of miners and settlers in California, who cannot be heard or represented here; that the land now claimed for the Gomez title was not that covered by the alleged original grant.

In view of all which and for many other reasons, the committee recommend the passage of the following resolution:

A resolution relative to the petition of William McGarrahan.

Be it resolved by the House of Representatives of the United States of America in Congress assembled, That William McGarrahan is not en-

titled to the relief prayed for in his petition, and that the Committee be discharged from a further consideration of the same.

The committee would submit, as indispensable to the correct understanding of the propositions discussed in this report, documents annexed and marked—

Exhibit A, extract from the opinion of the Supreme Court in the case of United States *vs.* Gomez, 23 Howard.

Exhibit B, decision of the Supreme Court United States rejecting the Gomez claim on its merits, 3d Wallace, 773.

Exhibit C, Judge Ogier's return to the mandamus of the Supreme Court as to the fact whether an appeal was taken or not.

APPENDIX.

A.

Extract from the opinion of the Supreme Court in the case of United States vs. Gomez.

The following is an extract from the opinion of the Supreme Court in the case of United States *vs.* Gomez, 23 Howard, page 332:

Mr. Ord was originally the attorney of Gomez before the board of land commissioners, and filed his petition there as such on the 9th February, 1853. He was not then district attorney, but he became so on the 1st of July, 1854, before the land commissioners decided the case against his client. After his appointment, and after an order had been obtained, at his instance, to remove the cause from the northern district of California to the southern, of which he was the district attorney, and while the cause was pending in the latter, he took from Gomez, for the nominal consideration of one dollar, a transfer to himself for one-half of the land in controversy. This Mr. Ord admits in his affidavit, presented to this court by counsel. The conveyance to him bears date on the 24th of November, 1856. It was acknowledged on the same day by Gomez, before a notary public of the county of San Francisco, and was, at the request of Mr. Ord, recorded in the county of Merced on the 26th November, 1857; was also filed for record in the county of Fresno on March 26, 1858, and again recorded by Mr. Ord, in Monterey County, the 3d May, 1858. A copy of that conveyance is now before us. These dates show that no record of the conveyance to him was made until after the claim had been confirmed by the district judge, upon his representation that, as district attorney, there was no objection to its confirmation; in other words, that he thought the claim a valid claim, and was within the rulings of the court in other claims of the same kind.

We shall cite the notice in its words; for, as it had been in fact the subject of the court's action, and could not have been so without the knowledge of Mr. Ord, and without his agency, it devolves upon him the task to disprove the declarations of Mr. Hartman of the forgery of the name of the firm of Hartman & Sloan to the paper. We ought to remark, however, that Mr. Sloan, of the firm, is not shown by any paper to have had any personal agency in the matter. The notice is: "Now, on this day came the parties, the appellant by Hartman & Sloan, and the appellee by P. Ord, United States district attorney. Whereupon, on motion of the attorney of the appellant, it is ordered that the transcript and papers transmitted from the northern district court be filed in this court, and that the petition for a review of the same be entered thereon, and that the claimant have leave to proceed in said cause the same as if it had been originally filed in this court." On the same day, a petition was filed for a confirmation of the claim.

After the confirmation of it, in the manner as will hereafter be stated, Mr. Sloan, upon being told of the motion, and that it was signed by the firm of Sloan & Hartman, but, in fact, as if the style of their firm was *Hartman & Sloan*, made his affidavit under a commission instituted by Judge Ogier, that neither as a member of the then firm of Sloan & Hartman, nor otherwise, was he ever retained or employed in the case; that he never wrote nor authorized to be written any petition or other paper in the case; that he never had seen such a petition; that he had never authorized any one to use his own name, or that of the firm of Sloan & Hartman, in the case; and that, if the paper was signed as it is represented to be, it had been without any consultation with him, or his consent or approbation.

* * * * * *

The motion made for the removal of the cause to the southern district is said to have been signed by E. W. F. Sloan, esq., and presented by him in open court; and the order said to have been passed recognizes that as a fact. On the same day the firm of Hartman & Sloan is reported in the transcript to have filed a notice of appeal with the clerk of the district court for the southern district. The paper has all of the formality and substance which such a paper should have, but Hartman & Sloan deny the fact of having had any agency in making such a motion; and these separate affidavits would be sufficient to sustain their disclaimer, were it not, so far as Hartman is concerned, that his subsequent conduct in the case shows a connection between himself and Mr. Ord, which throws suspicion upon both; and that is aggravated by Hartman's deposition, by that of other persons, and by the narrative given by Mr. Ord of his conduct in the suit.

Hartman then makes his affidavit, that he had no knowledge who made and caused the petition to be filed, nor by whose authority and direction the same was done. But he states that, while attending the June term of the southern district court in 1857, Mr. Ord, then United States district attorney, asked him if he would do him the favor to present a claim to the court for confirmation, stating it was a case in which there would be no opposition on the part of the Government. That, not suspecting there would be anything wrong about a claim to which the Government had no objection, he consented to do so; that, on the same day, the court being in session, and he being seated at the bar table, Mr. Ord passed to him the transcript in the case of Gomez and the United States, which he read to the court without any remarks, supposing it to be the case of which Mr. Ord had spoken to him; that after he had finished reading it, Mr. Ord remarked to the court that there was no opposition on the part of the Government to a confirmation; whereupon the court replied that there being no objection, the claim would be confirmed as a matter of course. Mr. Hartman continues his narrative of his further connection with the case and with Mr. Ord, six months after, at the December term of the court, when it was held at Los Angeles. He says that when Mr. Ord remarked to him that it had been omitted, at the time of the confirmation of the claim, to have a decree signed by the judge, that Mr. Ord requested him to draw a decree, and to present it to the judge, to be signed *nunc pro tunc*. He says that he did so, without knowing or suspecting that Mr. Ord had an interest in the land claimed by Gomez. This statement by Hartman of his agency in the confirmation of the claim, and in getting a decree upon it six months afterward at the instance of Mr. Ord, is denied by the latter in his affidavit, excepting as to his declaration to the court that the Government had no objection to the confirmation of the decree. The latter he admits in stronger terms than have been given. We shall use the affidavit for other purposes, and will have it printed in connection with this opinion, in justice to Mr. Ord, that the relation between himself and Mr. Hartman may be properly estimated from their respective declarations concerning it, only remarking now that there is proof that Mr. Hartman had subsequently declared himself to have been the attorney of Gomez in the case; that he had been so in all that he had done in the case; and that he had charged and demanded a fee for his services. It is not necessary for us to attempt to reconcile these differences, but it has certainly turned out unfortunately for Mr. Ord, in raising a violent presumption, from the manner in which they acted in the cause, that there was a concert between them to reverse the decision of the commissioners, and to obtain a decree in the district court for the claimant.

B.

Decision of the Supreme Court of the United States rejecting the Gomez claim upon its merits.
(3 Wallace, page 733.)

Regarding the case as regularly before the court, it becomes necessary to examine the merits of the claim. Some suspicion attaches to it, because it is made for four leagues of land; whereas the only document introduced in support of it, which is of the least probative force, represents the original claimant as having asked for but three leagues. The document referred to purports to be a petition of the claimant to the governor, and there is appended to it the usual *infórme;* but there is no concession or grant, nor is there any satisfactory evidence, that any title of any kind was ever issued by the governor to the claimant. He states in his petition to the land commissioners, that he obtained the map or record from the proper officers of the department; but the alleged fact is not satisfactorily proved. Four witnesses were examined by the claimant before the land commissioners, but only one of the number pretended that he had ever seen the grant, and his statements are quite too indefinite to be received as satisfactorily proved.

Instead of proving possession under the grant, it is satisfactorily shown that he never occupied it at all, and it is doubtful if he ever saw the premises during the Mexican rule. The land commissioners rejected the claim; but before it came up for hearing in the district court, his attorney had been appointed district attorney of the United States, and the proof shows that he conveyed two leagues of the land to the district attorney. The circumstances of the confirmation of the claim in the district court are fully stated in the opinion of this court, when the mandate was revoked and recalled. (United States *vs.* Gomez, 23 Howard, 339.) Comment upon those circumstances is unnecessary, except to say that the confirmation was fraudulently obtained.

Although the decree was fraudulently obtained, still, inasmuch as it is correct in form, it is sufficient to sustain the appeal for the purpose of correcting the error. The party who procured it cannot be allowed to object to its validity as a means of perpetuating fraud, especially as he did not appeal from the decree. The decree of the district court is therefore reversed, and the case remanded with directions to dismiss the petition.

C.

Return of Judge Ogier upon the application of McGarrahan's attorneys for a mandamus to compel him to carry out the mandate of the Supreme Court of the United States.

To the Honorable the Supreme Court of the United States:

The undersigned, judge of the United States district court in and for the southern district of California, having been served with a copy of an application to be made to your honorable court for a peremptory mandamus "commanding him,(me,) as judge of said district court, to dismiss a certain motion now pending in said court, for a new trial in a certain cause now remaining in said court, entitled Vicente P. Gomez, appellant, *vs.* The United States, appellee, and numbered on the calendar 393, said United States being the moving party in the motion aforesaid; also, commanding me to do and allow to be done in said cause whatever by right and justice and the laws of the United States ought to be done, and remains to be done therein," the aforesaid application will be made to the Supreme Court on the affidavits and exhibits thereunto annexed, and on the records and files now remaining in the said court in a case lately pending therein, entitled Vicente P. Gomez, appellant, *vs.* The United States, appellee, begs leave to return the annexed certified copies of the files and extracts from the minutes in this cause.

The undersigned would also beg leave to suggest to your honorable court that if he has erred in entertaining the motion for a new trial, and continuing the hearing of the same, the remedy of the party was not by mandamus, but by appeal or writ of error.

I would also most respecfully suggest that the application for a peremptory mandamus, in a case of this character, before the issuance of the rule "*nisi*," is entirely without precedent.

But if your honorable court should decide that this remedy sought for by the party be the proper one, I would most respectfully beg leave to submit the following statement:

This cause came on to be heard before the United States district court in and for the southern district of California, on an appeal from the board of land commissioners.

The transcript in this case was first filed in the northern district of California, and afterward, upon the suggestion of E. W. F. Sloan, and upon the affidavits of Gomez, the claimant, and H. Cambuston and Castro, that the lands claimed were in the southern district of California, the court ordered the transcript and record to be sent thereto.

The transcript of the record before the land commissioners shows that a petition was filed before that board on the part of the claimant by Pacificus Ord, as his attorney, asking for a "confirmation of the lands claimed." The next document of record is the decree of the commissioners rejecting the claim.

A notice or intention to appeal on the part of the claimant is filed in the cause, signed by E. O. Crosby.

The next document which appears of record, and in this court, is a petition for a review in accordance with the practice established by the court, and signed by Hartman and Sloan, (marked in annexed exhibits I, pages 10 and 11,) filed June 4, 1857. No answer thereunto appears on the record of the court.

The extract from the minutes of the court, marked K, page 14, in exhibits hereunto annexed, shows that the case was submitted to the court, and a judgment rendered therein. No decree was entered at the term during which the judgment was rendered.

A motion was made on the 5th day of February, 1858, to enter a decree "*nunc pro tunc*," and a decree was accordingly signed, filed, and entered on that day as of the 5th of June, 1857. On the 15th of March, 1858, E. J. C. Kewen, acting for P. Ord, United States district attorney, filed a motion for leave to take an appeal in this and several other cases, which motion was taken under advisement by the court, as will be seen by reference to page 21, document P, in annexed exhibits. On the 7th of July, 1858, E. M. Stanton filed, as special counsel for the United States, a motion to open said decree, reinstate the cause upon the docket, and for leave to take testimony on the part of the United States; said motion is in annexed exhibits, marked W, page 29.

When, afterward, on the 7th of December, 1858, J. R. Gitchell, United States district attorney, who had succeeded P. Ord, filed his motion for leave to withdraw the motion made on the 15th March, for leave to appeal this with several other cases, which was granted, as will appear by reference to document Q, page 22, of annexed exhibits. Upon the same day, to wit, the seventh day of December, 1858, J. R. Gitchell, United States district attorney, filed his motion and affidavit for reopening the decree, and to reinstate said cause on the calendar; which said motion and affidavit were lost from the files of the court, but refiled "*nunc pro tunc*," January 11, 1860, as will be seen by reference to documents marked A A, B B, and G G, to be found on pages 32, 33, 34, and 44 of annexed exhibits.

On the 4th day of May, 1859, J. L. Brent, attorney of Vicente P. Gomez, appellant,

appeared in open court, and made his motion for leave to file a mandate of the Supreme Court, and for an order to proceed under the former decree of this court as under a final decree; which said motion was, by consent of parties, continued indefinitely, as appears from documents R and S, pages 23 and 24, annexed records.

From document T, page 25, of annexed records, it will be seen that on the 7th of November, 1859, Shafters, Park, and Hydenfelt, and E. W. Taylor were substituted as attorneys of record for appellant in this cause, and on the 8th day of November, 1859, the parties, by their counsel, stipulated that all questions in this cause should be set down for argument and for final submission on Monday, the 9th day of January, 1860, as will be seen by reference to document X, page 30, annexed records.

On the 7th of December, 1859, E. L. Goold appeared as special attorney of the United States, and moved to continue the whole case until the next regular term of this court; which motion was overruled. See extracts from minutes, marked Y, page 31, annexed exhibits.

On the 11th day of January, 1860, J. R. Gitchell, United States district attorney, filed his motion and affidavit for a continuance of this cause until the next regular term of the court; said motion and affidavit will be found, marked C C, pages 33 and 36, annexed records; which said motion was considered and overruled by the court, but said cause was continued by the court on its own motion, for further testimony, as will appear from extracts of minutes, marked I I and J J, pages 46, 47, and 48 of annexed records. In addition to these exhibits are also fied the affidavits of Mr. Hartman, setting forth that the petition in this cause, purporting to be signed by Hartman and Sloan, was never so signed by them, nor either of them, or by any person authorized by them, and that they nor either of them ever appeared as attorneys in this case, except by the request of P. Ord, United States district attorney, as will appear by reference to document E E, pages 39, 40, 41, and 42, annexed records.

The attention of your honorable court is particularly called to this affidavit of Mr. Hartman, and also the deposition of Mr. E. W. J. Sloan.

I have filed in this cause a record of the whole proceedings in the case, voluminous, and somewhat, perhaps, irrelevant; but I have done so for the reason that in arresting the case in its present stage on my own motion, I have taken a course outside of the usual and ordinary practice of courts of justice.

The rules of the United States district court in and for the southern district of California require that, after the filing of a transcript from the board of land commissioners, and a notice of intention to prosecute the appeal, a petition should be filed by the party seeking a review of the decision of the board of land commissioners, and that a copy thereof shall be served upon the opposite party or their attorneys, before the cause can be brought to a hearing.

The rules of this court, adopted on the 14th day of June, 1855, are annexed to the documents filed in this case, and marked Y Y.

It will be seen from the record evidence heretofore referred to, that P. Ord was the attorney of the claimant before the board of land commissioners; and that he afterward became United States district attorney for the southern district of California.

The notice of intention to appeal in this case was filed by one E. O. Crosby. This, so far as the claimants are concerned, seems to be all that was ever done in their behalf, or by their sanction. A petition for a review of the proceedings of the board of land commissioners was filed on behalf of claimants, purporting to be signed by Hartman & Sloan. The affidavit of Mr. Hartman is to the effect that no such petition ever was signed by either Mr. Sloan or himself, or by any other person authorized by them to sign the same. The affidavit further shows that they never were employed by the claimants in this cause, or authorized to take any steps therein.

An answer to said petition was filed in the clerk's office of the United States district court in and for the southern district of California, by P. Ord, United States district attorney, but by whom signed is not known, as the said answer is now missing from the records of the court.

On the 5th of June, 1857, at a term of the court held in Monterey, Mr. Hartman appeared, and presented this cause to the court, merely stating the title of the cause and the number upon the docket. Mr. Ord appeared upon the part of the Government, stating that there was no objection to a confirmation upon the part of the United States, and, as a matter of course, a judgment of confirmation was entered. Supposing, as the court did, that Mr. Hartman was the attorney of record for the claimants, and duly authorized to represent them in said cause, and Mr. Ord being the United States district attorney, an officer of the United States Government empowered to attend to the interest of the Government in these causes, and consenting to said confirmation, without an examination of the papers, I, as judge of the court, ordered a decree of confirmation to be entered.

No decree was entered at the term at which judgment was rendered, nor was any motion for appeal on the part of the United States made. At a subsequent term of the court, held at Los Angeles, commencing on the first Monday in December, 1857, to wit, on the 15th day of March, 1858, during said term, E. J. C. Kewen, acting for P. Ord,

United States district attorney, made a motion for leave to appeal this cause with several others. At that time, counsel employed in the land cases in California were in doubt whether an appeal could be taken after the expiration of the term at which judgment was rendered, and, at the suggestion of Mr. Kewen and other counsel engaged, the question was taken under advisement by the court to await the decision of a case then pending before the Supreme Court, in which it was suggested to this court that this point would be settled. Intermediate to the motion of Mr. Kewen for leave to appeal from the judgment of confirmation, a decree had been offered to the court by Mr. Hartman, Mr. Ord thereunto consenting on the part of the United States, and signed by me, as judge, confirming the claim.

On the 7th of July, 1858, Mr. E. M. Stanton, special attorney for the Government, filed his motion before referred to for a rehearing in this case, unaccompanied by any showing, which motion was filed in the clerk's office, and no action had upon it by the court.

At the commencement of the term, to wit, on the 7th day of December, 1858, J. R. Gitchell, United States district attorney, who had succeeded Mr. Ord, filed his motion for leave to withdraw the motion heretofore made by Mr. Kewan for leave to appeal this and several other cases; and also filed a motion for a rehearing in this case, accompanied by an affidavit, substituting the same for the motion of Mr. Stanton.

It seems from the records and from the affidavits of the clerk of the United States district court in and for the southern district of California, and his deputy, that something purporting to be a record of proceedings in this case was obtained from the clerk's office by one William McGarrahan, and filed in the clerk's office of your honorable court, and the cause called up upon what purported to be a record of the proceedings of this court, and dismissed, and the mandate of your honorable court issued, commanding me to allow the parties to proceed under the decree heretofore entered in the United States district court in and for the southern district of California, as under a final decree.

When this mandate was offered by Mr. J. L. Brent to be filed, together with the order for carrying it out, it was resisted by the United States district attorney on the grounds that no appeal had ever been allowed, and the records of this court were produced in support of his objections. Under these circumstances, I was induced to examine the case thoroughly, and for the first time finding, from the transcript filed from the land commission, that Mr. Ord had been the attorney of the claimants before that board, and that the notice of intention to appeal the cause to the United district court was also in his (Ord's) handwriting, although signed by one E. O. Crosby; that the answer to the petition of review, which was then in the records of this court, was also in the handwriting of Mr. Ord; and there appearing upon the records of the court no attorney for the claimants, that the court had been imposed upon and induced to issue its decree of confirmation by the false representations of Mr. Hartman and Mr. Ord, I entertained the motion. Your honorable court will see, from the record evidence filed in this cause, that when the day, fixed by consent and stipulation of all the parties, for the hearing of all the motions pending in this case, had arrived, to wit, 11th day of January, 1860, Mr. J. R. Gitchell, United States district attorney, made a motion for a continuance, accompanied by an affidavit setting forth that the decree of this court heretofore entered had been improvidently made and fraudulently obtained, inasmuch as the United States district attorney, P. Ord, had, before the rendition of the judgment and entering the decree of the court in this cause, become interested in the claim by virtue of a deed of conveyance from the claimant, Vicente P. Gomez, to him, (Ord,) for two square leagues of the land claimed, and that he (Ord) had collogued and conspired with the said Vicente P. Gomez, or his assignees, and for his own interest, to permit said judgment to be entered without contest on the part of the United States.

The deed from Gomez to Ord did not accompany the affidavit, but it was admitted by counsel for claimant that said deed existed, and it was stipulated that a copy of said deed might be filed in this cause as evidence; which has since been done, and a copy thereof annexed to accompanying records.

This motion of the district attorney for a continuance was refused for reasons which I stated from the bench, and which were, that his remedy was not by a motion for a rehearing, but by motion for leave to file a bill of review; but while I refused the continuance on the motion of the district attorney, I felt it my duty, convinced by the proof shown by the records, that I had been induced improvidently to make the decree in this case, and to continue it on my own motion, in order to obtain the testimony of Mr. Sloan as to his connection with the cause.

A commission was issued, and the deposition of Mr. Sloan taken in it. He denies all connection with the case whatever, except so far as having made the motion before the district court of the northern district of California to send the transcript in this case to this court, which he avers he did, as a matter of courtesy, on the application of some attorney, (he believes Mr. Ord.)

Under these circumstances, I have felt it my duty to keep the case open, in order that the parties interested may have an opportunity of fairly presenting their inter-

ests before this court. The whole record shows that Mr. Ord was representing both interests in this case; that he had been the attorney of the claimant from the inception of the cause before the board of land commissioners, up to the time the decree was entered in this court; and that the appellees in this case had really never been represented; and when this fact was brought to the notice of the court by the present district attorney, Mr. Gitchell, sustained by the record proofs, it seemed to me the only course left, in order that justice might be done, was to keep the case open.

As to the merits of the claim, I have carefully abstained from examining into them. The course pursued by me can under no circumstances work permanent injury to either party. If the claim be meritorious, the parties in interest have only to have it properly presented, and I am sure your honorable court will feel the same indignant disapprobation of the conduct of counsel in this case which I have felt, and which has induced me to the course I have pursued.

However, should your honorable court think that I have erred in entertaining this motion, and continuing the same, and so decide, I shall most cheerfully submit to such decision.

Very respectfully,

ISAAC S. K. OGIER,
U. S. District Judge, in and for the Southern District of California.

D.

UNITED STATES OF AMERICA, *Southern District of California, Los Angeles:*

C. Sims, being duly sworn, says he is, and has been for two years, the clerk of the district court of the United States for the southern district of California; that in the case No. 393, wherein V. P. Gomez is claimant *vs.* The United States, for the rancho "Panoche Grande," a transcript was called for by letter signed W. W. McGarrahan, and was prepared and forwarded to him by my then deputy, J. H. Coleman.

Subsequently, and on or about the first week of September, 1858, another letter was sent by said McGarrahan, asking, among other things, that a motion, filed on behalf of the Government by Mr. E. M. Stanton, special counsel, asking for the reopening of the cause, be omitted from the transcript, a true copy of which letter is appended hereto. My said deputy, J. H. Coleman, had been superseded by Mr. W. W. Stetson, who, being fully empowered to open and act upon letters officially directed to me, did act upon the letter just mentioned, and prepared and forwarded to said McGarrahan a transcript in accordance with the terms of said letter, as I afterward ascertained.

When said letter was received, the motion of the Government for an appeal was under advisement by the court. And deponent further says that no appeal to the honorable the Supreme Court of the United States has ever been allowed by this court in the case of V. P. Gomez, claiming "Panoche Grande," No. 393 of the docket, and that the said motion of the Government for such appeal has been withdrawn by the present district attorney of the United States for the southern district of California.

And further deponent saith not.

C. SIMS.

Subscribed and sworn to before me this 8th day of December, 1859.

ISAAC S. K. OGIER,
U. S. District Judge for the Southern District of California.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 24, pt. 2.

WILLIAM McGARRAHAN.

FEBRUARY 1, 1871.—Ordered to be printed.

Mr. BINGHAM, for the minority of the Committee on the Judiciary, submitted the following as the

VIEWS OF THE MINORITY.

The minority of the Committee on the Judiciary, to whom was referred the memorial of William McGarrahan, dissent from the conclusions of the majority, and beg leave to make the following report:

The memorialist claims that in 1844 the then governor of Upper California, in accordance with the laws and customs of Mexico, granted to one Vicente P. Gomez a tract of land known as the rancho "Panoche Grande," situated within what is now the State of California; and that on the 22d December, 1857, for a valuable consideration and in good faith, he purchased the premises from Gomez. By the treaty of Guadalupe Hidalgo, entered into by the United States with Mexico February 2, 1848, it was provided that "property of every kind now belonging to Mexicans shall be inviolably respected;" and that "the United States should pass such laws as would give effect to the treaty stipulations." (United States Stat. at Large, vol 9, pp. 929–931.)

In pursuance of these treaty obligations, the United States, March 3, 1851, provided by law for a board of land commissioners, and further, by the same law, provided "that each and every person claiming lands in California by virtue of any right or title derived from the Spanish or Mexican government, shall present the same to the said commissioners, when sitting as a board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claim; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same upon such evidence, and upon the evidence produced in behalf of the United States, and to decide upon the validity of the said claim." (United States Stat. at Large, vol. 9, p. 632, sec. 8.)

On the 9th of February, 1853, Gomez, in accordance with this act of Congress, presented his petition to the said board of commissioners of the United States, alleging the grant to him by the Mexican governor of Upper California of the rancho Panoche Grande, and praying a confirmation of his claim to the same, which petition is as follows. The board of commissioners, having fully heard the evidence, made the following finding and decision:

To the board of commissioners for ascertaining and settling private land claims in the State of California:

The petition of Vicente Gomez, of Monterey County, California, respectfully represents: That some time in the year 1844 M. Micheltorena, governor of Upper California, granted to your petitioner a certain tract of land called Panoche Grande, of the extent of four square leagues, (now lying and being in the county of San Joaquin,) bounded

as follows: On the south by the lands of Francisco Arias; on the north by the lands of Julian Ursua and the low hills; and on the west by the barren hills, as explained by the map hereto annexed. Your petitioner alleges that for some time before the military occupation of Monterey, California, by the American forces, July 7, 1846, he was a clerk in the commissary's office of Monterey, and that, at that time, he had his original title papers for said tract of land deposited in his desk in said office of the commissary. That shortly before the naval forces of the United States took possession of the town of Monterey he had left the town with some of the Mexican troops to assist in the defense of the country.

That when he so left Monterey he left his said original grant of said land in his desk, at the office of the commissary as aforesaid, and believing it to be in a secure place. That upon his return to Monterey he found it in possession of the United States troops, and the public buildings, offices, and papers were all in possession of and guarded by American soldiers. Your petitioner made application without delay to the American officer who had charge of the office and papers where his said original title for said tract of land was deposited as aforesaid, but the said officer (Lieutenant Maddox, of the United States marine troops) refused to deliver any paper or papers then in possession or under his charge. Your petitioner alleges that the map herewith presented is the map which accompanied the original expediente, and that the grant made as aforesaid by Governor Micheltorena was the land delineated by this map.

Your petitioner became possessed of this map by permission of the proper officers for the purpose of having a copy made for his use and benefit, and he had taken it to his present dwelling-house a short time before California fell into the hands of the American authorities. Since he got possession of the map as aforesaid it has always remained in his hands. He has made application to the person in charge of archives of the former government, which was taken at Monterey, for information in relation to this grant and title made to him as aforesaid; but it could not be found, nor was the original expediente found.

Your petitioner has heard, and believes and alleges, that many original papers and documents belonging to the government archives taken at Monterey on the 7th of July, 1846, have been since lost or destroyed. If such be the fact, his title papers and the expediente must have been among the papers and documents so lost or destroyed.

Your petitioner hopes that, after such proof as the nature of the case will admit, your honorable board will confirm his said claim to the said four leagues of land granted as aforesaid, and that he may have a decree accordingly and general relief, as in duty bound.

P. ORD,
Attorney for Petitioner.

Filed in office February 9, 1853.

GEORGE FISHER,
Secretary.

Recorded in vol. 1 of Petitioners, in pages 549 and 550.

GEORGE FISHER,
Secretary.

Vicente Gomez *vs.* The United States, No. 569. Claim for a place called Panoche Grande, containing four square leagues, situated in the county of Monterey.

The petitioner in this case states in his petition that he had a grant for the above-named place, issued in the year A. D. 1844, by Governor Micheltorena, and that the grant was among the archives of the state in Monterey, at the time that the archives fell into the hands of the Americans, in July, 1846, and that it was either lost or destroyed. He has also given satisfactory proof of the existence and loss of the grant, but has failed entirely to offer any proof whatever going to show that he ever occupied, improved, or cultivated any part of the land, or that any one ever did for him, or that he ever saw the land. We are, therefore, of the opinion that the claim is invalid, and a decree rejecting the same will be entered.

Rejected.

Filed in office March 6, 1855.

GEORGE FISHER,
Secretary.

Recorded in record of decisions, No. 2, p. 552.

GEORGE FISHER,
Secretary.

It will be observed, that the board of commissioners find that Gomez had "given satisfactory proof of the existence and loss of the grant, but had failed to show that he had ever occupied, improved, or cultivated any part of the land. We are, therefore," say the commissioners,

"of the opinion that the claim is invalid, and a decree rejecting the same will be entered."

A decree was accordingly entered by the commissioners "that the claim of the petitioner is not valid." The commissioners find that the claimant gave "satisfactory proof of the existence and loss of the grant," but reject and refuse confirmation of his claim, because, and only because, he had not occupied, improved, or cultivated any part of the land. Very soon after this decree of the commissioners, the Supreme Court of the United States in the case of Frémont *vs.* The United States, 17 Howard, 542, ruled that omission to occupy under Mexican land grants did not forfeit or invalidate the grant.

By the act of August 31, 1852, it was provided that, "in every case in which the board of commissioners on private land claims in California shall render a final decision, it shall be their duty to have two certified transcripts prepared of their proceedings and decision, and of the papers and evidence on which the same are founded, one of which transcripts shall be filed with the clerk of the proper district court, and the other shall be transmitted to the Attorney General of the United States; and the filing of such transcript with the clerk aforesaid shall *ipso facto* operate as an appeal for the party against whom the decision shall be rendered; and if such decision shall be against the private claimant, it shall be his duty to file a notice with the clerk aforesaid, within six months thereafter, of his intention to prosecute the appeal; and if the decision shall be against the United States, it shall be the duty of the Attorney General, within six months after receiving said transcript, to cause a notice to be filed with the clerk aforesaid that the appeal will be prosecuted by the United States; and on a failure of either party to file such notice with the clerk aforesaid, the appeal shall be regarded as dismissed." (United States Stat. at Large, vol 10, p. 99, sec. 12.)

The commissioners supposing the land to be in the northern district of California, sent the transcript of their proceedings in this cause to the northern district court. The order was as follows:

And it appearing to the satisfaction of the board that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered, that the transcript of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same were founded, be made out and duly certified to by the secretary. One of which transcripts shall be filed with the clerk of the United States district court of the *northern district* of California, *and the other transmitted to the Attorney General of the United States.*

The claimant also filed his notice of appeal as follows:

District court of the United States for the northern district of California.

Vicente Gomez, by his attorney, hereby gives notice that it is his intention to prosecute the appeal in the above-entitled cause, from the decision of the commissioners to ascertain and settle the private land claims in California, rejecting his said claim, the transcript of which was filed in the clerk's office of said district court on the 1st of October, A. D. 1855.

E. O. CROSBY,
Attorney for Appellant.

Filed March 18, 1856.

W. H. CHEEVERS,
Deputy.

Filed 6th June, 1857.

A. S. TAYLOR,
Deputy Clerk.

It subsequently appearing that the lands of the Panoche Grande were in the southern district of California, the court certified and transferred the cause to the southern district by their order, as follows:

At a stated term of the district court of the United States of America for the north-

ern district of California, held at the court-room, in the city of San Francisco, on Monday, the 9th day of March, in the year of our Lord one thousand eight hundred and fifty-seven. Present, Hon. A. McAllister, circuit judge, and Hon. Ogden Hoffman, district judge.

THE UNITED STATES *vs.* V. GOMEZ. } D. C. 278, L. C. 569.

It being represented to the court that the lands claimed in this case lie in the southern district of California, now, therefore, on motion of E. W. F. Sloan, esq., made in open court, ordered by the court that the clerk of this court send to the clerk of the district court for the southern district of California said transcript, together with a certified copy of this order.

(Indorsed.) Filed March 7, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEEVERS, *Deputy.*

I, John A. Monroe, clerk of the district court of the United States for the northern district of California, do hereby certify the foregoing to be a full, true, and correct copy of the original, now on file and remaining of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court this 1st day of June, A. D. 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEEVERS, *Deputy.*

Filed June 4, 1856.

C. SIMS, *Clerk.*
A. S. TAYLOR, *Deputy.*

Next follows the petition for a review of the decision of the land commissioners, as follows:

Petition for review.—Proceedings, &c., in southern district, June term, A. D. 1857.

VICENTE GOMEZ, appellant, *vs.* THE UNITED STATES, appellees. } Docket No. 393. Transcript No. 569.

To the honorable the district court of the United States for the southern district of California, on transfer from United States district court, northern district of California.

The petition of Hartman & Sloan, attorneys for Vicente Gomez, or those claiming under said Gomez.

That this case is an appeal from the decision of the board of United States land commissioners to ascertain and settle private land claims in California.

That the land claimed for by your petition is the land described in the expediente making a part of the evidence, proceedings, pleadings, &c., in the transcript No. 569 of said board of land commissioners above alluded to, together with the accompanying map or diseño, filed and indorsed in said transcript; and that the said land is known as the "Rancho Panoche Grande," and is within the jurisdiction of this honorable court.

That after considering the claim of your petition and the proofs filed in support thereof, said board, on the 6th day of March, 1855, decided the claim to be invalid.

That a transcript of the record of said proceedings was filed in this court on the 4th day of June, 1857, being transferred by consent of this court from the district court of the United States for the northern district of California, and that said transcript record was filed in said northern district on October the 1st, 1855, and a notice of appeal filed in said northern district court on the 18th March, 1856, by E. O. Crosby, said claimant's attorney.

Your petitioners pray that such decision of said board may be reversed, and that this court may confirm his title to said land.

HARTMAN & SLOAN,
Attorneys for claimant and those under him.

Filed 4th June, 1857.

A. S. TAYLOR, *Deputy Clerk.*

On the 5th of June, 1857, the said United States district court for the southern district of California, made the following order in the case:

Now, on this day, this cause coming on to be heard, the parties appearing by their respective attorneys, the appellant by Sloan & Hartman, esqs., and the appellees by P. Ord, United States district attorney, and, after argument by counsel aforesaid, the same is submitted to the court for final adjudication.

Whereupon the court, being fully advised in the premises, delivered its opinion, confirming the claim of the appellant to the extent called for in the transcript and papers; three leagues or sitios de granada magor, and a decree was ordered to be entered up in conformity to said opinion.

Afterwards the court made the following decree:

In the district court of the United States, southern district of California.

VICENTE P. GOMEZ, appellant, *vs.* THE UNITED STATES, appellees. } Case No. 393.—"Panoche Grande." Transcript No. 569.

This cause coming on to be heard on appeal from the decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under the act of Congress approved March 3, 1851, on a transcript of the decision and proceedings of said board, and the papers and evidence upon which said decision was founded, and the other evidence adduced by the appellant before this court, and it appearing to the court that said transcript and the notice of appeal have been duly filed according to law, and counsel for the respective parties having been heard:

It is ordered, adjudged, and decreed that the decision of said board of land commissioners be and the same is hereby reversed, and that the claim of appellant is good and valid, and the same is hereby confirmed to him as follows, to wit: Three leagues of land, more or less, situate in the county of Monterey, State of California, bounded on the north by the lands of Julian Ursua; on the south by hills; on the east by the valley of the Tulares; and on the west by the lands of Francisco Arias, as is more fully set forth and described in the title issues for the same, and the diseño accompanying the same.

But it appearing to the court that on the 5th day of June, A. D. 1857, the lands in this case described had been confirmed by the court to said claimant and appellant, and it having been omitted to sign and enter a decree therefor at this date last aforesaid, it is ordered that the same be done now for then.

ISAAC S. K. OGIER,
United States District Judge.

Filed this 7th day of January, A. D. 1858.
Nunc pro tunc, (5th June, A. D. 1857.)

C. SIMS, *Clerk*.
Per J. H. COLEMAN, *Deputy*.

On February 4, 1858, on motion of Sloan & Hartman, it was ordered that the appellant have leave to amend the decree by substituting another in its stead. This was the final decree:

In the district court of the United States for the southern district of California—Decree filed February 5, 1858, *as of June* 5, 1857.

VICENTE P. GOMEZ, appellant, *als.* THE UNITED STATES, appellees. } Case No. 393.—"Panoche Grande." Transcript No. 559.

This cause came on to be heard on appeal from the decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress approved March 3, 1851, on a transcript of the decision and proceedings of said board, and the papers and evidence upon which said decision was made, and the other evidence adduced by the appellant before this court; and it appearing to the court that said transcript and notice of intention to appeal have been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged and decreed that decision of said board of land commissioners be, and the same is hereby, reversed, and that the claim of said appellant is good and valid, and the same is hereby confirmed to him, as follows, to wit: The tract of land situated in the county of Fresno, State of California, known by the name of "Panoche Grande," bounded northerly by the lands of Don Julian Ursua; southerly by the Serrania, easterly by the valley of Tulares, and westerly by the lands of Don Francisco Arias, containing four square leagues of land and no more; provided that quantity is contained within the boundaries aforesaid, that confirmation of such less quantity is hereby made to said claimant; and for a more particular description of which said land reference is hereby made to the map contained in the transcript in this case; and it also appearing that heretofore, to wit, on the 5th day of June, A. D. 1857, at a regular term of this court, holden in the town of Monterey, State of California, the claim of the appellant in this case had been confirmed by this court, but that it

had been omitted by the court to sign the decree of confirmation at the time the same was made, it is therefore further ordered by this court that the same be signed now as for then.

Given under my hand, in open court, 5th day of February, A. D. 1858.

ISAAC S. K. OGIER,
U. S. District Judge for the Southern District of California.

Filed this 5th February, 1858, for the 5th June, 1857.

C. SIMS, *Clerk.*
Per J. H. COLEMAN, *Deputy.*

At the December term, 1857, an appeal was ordered, on motion of the United States attorney, to the Supreme Court of the United States, as follows:

In the district court of the United States for the southern district of California, Los Angelos, December term, 1857.

On motion of P. Ord, attorney of the United States for the southern district of California, it is ordered by the court that appeal to the Supreme Court of the United States be allowed the United States in the following cause, viz, No. 393, Vicente P. Gomez *vs.* The United States, decided June 5, 1857.

C. SIMS, *Clerk.*
Per J. H. COLEMAN, *Deputy.*

Filed March 15, 1858

Something has been said of the decree being but for three leagues, and afterward amended so as to decree four leagues. It is answered that the order for decree, June term, 1857, confirmed the claim of Gomez "to the extent called for in the transcript and papers." The extent called for in his petition to the commissioners was four leagues. The words of his petition, which is part of the transcript and papers, are: "That some time in the year 1844 M. Micheltorena, governor of Upper California, granted to your petitioner a certain tract of land called Panoche Grande, of the extent of four leagues," &c., and prays that the board "will confirm his said claim to the said four leagues of land granted as aforesaid," &c.

His original petition concludes as follows:

Your petitioner hopes that, after such proof as the nature of the case will admit, your honorable board will confirm his said claim to the said four leagues of land granted as aforesaid, and that he may have a decree accordingly and general relief, as in duty bound.

P. ORD,
Attorney for Petitioner.

Filed in office February 9, 1853.

GEORGE FISHER,
Secretary.

Recorded in vol. 1 of Petitioners, in pages 549 and 550.

GEORGE FISHER,
Secretary.

It is sufficient to add further that the original decree of the court was for "three leagues of land more or less."

This appeal to the Supreme Court of the United States was perfected, and the same, after full consideration by the then Attorney General, Black, was, with his consent, docketed by the counsel of McGarrahan in the Supreme Court, December term, 1858, and dismissed thereby for want of prosecution on the part of the United States, and a mandate was issued by the Supreme Court to carry the decree into effect.

The following is the decree of dismissal and the mandate issued thereon:

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the judges of the district court of the United States for the southern district of California, greeting:

Whereas lately, in the district court of the United States for the southern district of

California, before you, in a cause between Vicente P. Gomez, appellant, and the United States, appellees, wherein a decree was rendered in favor of said appellant, whereupon the said appellees prayed an appeal, which was allowed by the said district court, to remove the said cause to the Supreme Court of the United States, as by the inspection of the transcript of the record of said district court, which was brought into the Supreme Court of the United States agreeably to the act of Congress and the rules of the said Supreme Court in such case made and provided, fully and at large appears; and whereas in the present term of December, in the year of our Lord one thousand eight hundred and fifty-eight, the said cause came on to be heard before the said Supreme Court on the said transcript of the record, and it appearing that the appellants (the United States) have failed to have their cause filed and docketed in conformity with the rules of this court, it is now here ordered and decreed by this court that the appeal from the district court of the United States for the southern district of California be, and the same is hereby, docketed and dismissed, and that this cause be, and the same is hereby, remanded to the said district court, January 31.

You, therefore, are hereby commanded that such proceedings be had in said case as according to right and justice and the laws of the United States ought to be had, the said appeal notwithstanding.

Witness the Hon. Roger B. Taney, Chief Justice of said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and fifty-eight.

[L. S.]

WILLIAM THOMAS CARROLL,
Clerk of the Supreme Court of the United States.

[Indorsed.]

No. 393, No. 299, December term, 1858. Mandate of Supreme Court United States. United States *vs.* Gomez.

Filed May 4, 1859.—C. Sims, clerk.

C. SIMS, *Clerk.*

In the district court of the United States for the southern district of California.

VICENTE P. GOMEZ, appellant,
vs.
UNITED STATES, appellee.

And now comes Vicente P. Gomez, appellant herein, and files in open court the mandate of the Supreme Court of the United States, held on the 1st day of December, 1858, and rendered herein.

Whereupon it is by the court ordered, adjudged, and decreed, that the said mandate be carried into effect; that the said Gomez proceed under the decree of this court, heretofore rendered, as under a final decree.

Thus done and signed in open court this May, A. D. 1859.

[Indorsed.]

No. 393. Vicente P. Gomez *vs.* United States. Final orders of court upon filing mandate of the Supreme Court of the United States.

Filed May 4, 1859.

C. SIMS, *Clerk.*

That Attorney General Black was fully advised and privy to this proceeding is apparent from the fact that the appeal was docketed in his office by him as Attorney General, and the further fact that before the appeal was docketed in the Supreme Court he addressed the following letter to T. F. Meagher, esq., of counsel for McGarrahan:

ATTORNEY GENERAL'S OFFICE, *December* 18, 1858.

DEAR SIR: I gave General Shields an answer day before yesterday, which he promised to convey to you, and which I supposed you had received. I now repeat the substance of it when I say that, as at present advised, it is impossible for me to dismiss the case. But I have assented to let it stand until Mr. Stanton comes home, in the hope that it may then appear to be included within a rule which will enable me to gratify you, as I am extremely anxious to do. Mr. Stanton is expected by the next steamer from California, and I am very sure that he will come then, unless the illness of his son prevents him. You may, therefore, confidently expect a reply about the last of the present month, but not before, unless you would prefer a decision against you to the suspense of waiting that length of time.

Very respectfully, &c.,

J. S. BLACK.

T. F. MEAGHER, Esq.

After this letter the case was docketed in the Supreme Court, the appeal dismissed, and decree entered as above. The mandate issued by the Supreme Court was received in the district court of the United States for the southern district of California, and entered on record at its December term, 1858, to wit, in May, 1859, as appears by the record above. Thus the decree of the district court was made final.

By virtue of this final decree under the laws of the United States, McGarrahan, as grantee of Gomez, was entitled to have a survey of the land by the United States surveyor general of California. (See Statutes of 1862, vol. 12, p. 410.)

He applied to the United States surveyor general of California for a survey of the tract Panoche Grande, which officer caused a survey to be made, and approved the same September 11, 1862. This survey was transmitted immediately thereafter to the General Land Office and a patent for the property was demanded. The New Idria Mining Company appeared and resisted the issuance of this patent, though up to this time the said company had no color whatever of title to the premises and were mere trespassers.

Hon. Mr. Smith, then Secretary of the Interior, ordered the patent to issue to Gomez, which order is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, December 29, 1862.

SIR: I have carefully examined the papers accompanying your communication of 29th October last, relating to the application for a patent for the Panoche Grande Mexican claim of Vicente Gomez, in California.

From these papers the following facts are established: Vicente Gomez made his application before the board of land commissioners in California for the confirmation of an alleged grant by the Mexican authorities in 1844, of four square leagues of land in Monterey County, California, which grant he alleged was lost or destroyed at Monterey when that city was captured by the American army.

On the 6th March, 1855, the commissioners decided that the claimant had "given satisfactory proof of the existence and loss of the grant, but has failed entirely to offer any proof whatever going to show that he ever occupied, improved or cultivated any part of the land, or that any person ever did for him, or that he ever saw the land." The commissioners therefore rejected the claim as invalid.

From this decision the claimant appealed to the district court for the southern district of California. After the appeal was taken, and before the trial of the case by the court, the Supreme Court of the United States decided that neither improvement nor occupancy was necessary to give validity to grants made by the Mexican government before the annexation of California to the United States. From this decision it appears that the land commissioners found all the facts which were necessary to give validity to the claim. Had this decision been made before the commissioners decided the case it is evident they would have confirmed the grant.

On the 5th June, 1857, the district court for the southern district of California made an entry upon their minutes that, "being fully advised in the premises, delivered its opinion confirming the claim of the appellants to the extent called for in the transcript and papers, three leagues or sitios de ganada, and a decree was ordered to be entered up in conformity to said opinion."

No formal decree was signed and entered upon the record at that term; but on the 5th of February, 1858, at the next term of the court, a full and final decree was signed by the court and entered upon the records, which described the land by boundaries, and decreed that the decision of the land commissioners was reversed, and that "the claim of said appellant is good and valid, and the same is hereby confirmed to him." The decree also recited that the claim had been confirmed on the 5th June, 1857, by the court at a regular term, but it had been omitted by the court to sign the decree at the time it was made. It was therefore ordered that the decree be signed "now as for then." This was a decree *nunc pro tunc*, and had relation back to the time when the order of confirmation was made by the court.

On the 21st March, 1861, several regular terms of the court having intervened, the court made an order setting aside all previous proceedings in the case and placing the same on the calendar for trial *de novo*. On the 4th day of August, 1862, the court at a regular term made an order vacating the previous order granting a new trial, and ordering that it "be and the same is hereby vacated and set aside." These several

decrees and orders constitute a confirmation by the court of the grant of the claimant, and entitle him to a patent unless it shall be apparent that some proceedings have been instituted on behalf of the United States by way of appeal or otherwise, which will require a review or reëxamination of the case.

The case was docketed in the Supreme Court at the December term, 1858, as an appeal from the district court of California, and the appeal was dismissed on the motion of the appellee, and a mandate granted to the district court to execute the decree of confirmation. At the December term, 1859, on motion of the Attorney General, the order dismissing the appeal was vacated and the mandate was recalled. The effect of this order was to leave the case as though no appeal had been taken, and to authorize an appeal on behalf of the United States.

No appeal appears to have been subsequently taken until the 25th of August last, when an order for an appeal to the Supreme Court of the United States was made by the district court of California. On the 4th of the present month the district court vacated the order allowing the appeal, and set aside the motion of the district attorney asking leave on behalf of the United States to take an appeal to the Supreme Court from the final decree of confirmation, and denied the same.

This proceeding appears to me to be final and conclusive in the case. The time within which, by law, an appeal may be taken has elapsed, and the decree of confirmation made by the district court therefore fixes and determines the rights of the claimants.

It appears, from the opinion of the Supreme Court of the United States before referred to, that the district attorney, who represented the United States when the decree of confirmation was made, was interested in the claim at that time, and it is alleged that he fraudulently assented to the decree. Questions of fraud which have been raised in the case cannot be examined or determined by this Department. The only questions to be considered are: has the grant been confirmed by the decree of the proper court, and are there any legal proceedings pending to reverse or set aside that decree? Upon both of these questions it appears to me the answer must be in favor of the claimant.

The act of 14th of June, 1860, which requires the surveyor general to publish for a given time the fact of the survey, with a view of affording to persons interested an opportunity to contest the boundaries fixed by the survey, is directory to that officer The law directs this proceeding before the survey shall be reported to the General Land Office. The survey having been reported in this case, the presumption arises that the surveyor general has performed all the prerequisite duties enjoined by the law. Besides, by the law of June 2, 1862, the proper officers are required to survey such grants upon the application of the claimants, they paying or securing the expense, and such survey is declared to be but *prima facie* evidence of the true location of the land claimed or granted. Of course it is the duty of the surveyor general to report such survey to the General Land Office, which has been done in this case. The survey is but *prima facie* evidence of the true location, and a patent will be but *prima facie* evidence of title. No notice has been presented of any conflicting claim, and should such arise the parties cannot be precluded by a patent.

The order of Secretary Thompson against the issue of a patent in this case, based upon the letter of Attorney General Black, was founded upon the assumption that further proceedings would be instituted to reverse the decree of confirmation of the district court. No such proceedings are now pending, and the time within which any further appeal can be presented has elapsed.

My conclusion is, that the decree of the district court for the southern district of California confirming the grant has become final. The United States has no longer any interest in the controversy. No claim of third parties has been interposed. The suggestions of fraud in the grant, or in the manner of procuring its confirmation, are *res adjudicata*, and I am unable to discover any reasons why a patent should not be issued in conformity with the decree of the court and the survey.

You will, therefore, issue a patent for the land, in accordance with the survey as reported by the surveyor general.

The papers pertaining to the case are herewith returned to your office.

Very respectfully, your obedient servant,

CALEB B. SMITH,
Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

(Sen. Ex. Doc. 48, P't 3d, p. 22, 40th Congress.)

From some cause the execution of this order was delayed until the retirement of Mr. Smith, then Secretary, from the Department. The application was renewed by McGarrahan to Mr. Usher, the successor

of Mr. Smith as Secretary of the Interior, who, on the 4th of March, 1863, made the following order that the patent should issue:

DEPARTMENT OF THE INTERIOR.
Washington, March 4, 1863.

SIR: I have considered your communication of the 3d of January, 1863, relative to the issuing of a patent for the Panoche Grande claim in California. My predecessor having determined that the title was in the grantee named in the grant, the only question for my decision is, whether a patent shall issue upon a survey returned by the surveyor general, made under the act of June 2, 1862.

The view which I have taken of that act is, that it modifies the acts of March 3, 1851, and of June 14, 1860, so far as to allow the survey to be made at the instance of the party claiming the land, and making that survey only *prima facie* evidence of the true location of the land claimed. If the survey had been made under the acts of March 3, 1851, and June 14, 1860, and advertisements had been made and all things done in pursuance of the last-named act, the acts of the surveyor, if the same had remained, without having been caused by an interested party to be certified to the court, or the adjudication of the court, if the same had been so certified, would have been conclusive as to the *locus* fixed by the survey.

Whereas the act of June 2, 1862, makes the survey made under that act *prima facie* evidence only of the true location of the land claimed or granted, and as the survey was necessarily made under that act, I am of the opinion that the latter act modifies the former acts in this particular only, and that they are in force so far as they direct patents to be issued. I think, therefore, that the decision of my predecessor—directing the patent—was correct, and that it should issue. I would advise you, however, to cause to be inserted in the patent, by way of recital, the fact that it was issued upon a survey made under the act of June 2, 1862. And also, by way of greater caution, to insert a provision that the description of the land therein conveyed was to be taken against the United States, or any person making claim to the land, as *prima facie* evidence only of the true location of the land granted, and to be modified or avoided in that respect, if the same should be found to be erroneous.

Respecting the payment of the survey, or for the survey, I think it may be fairly presumed that his fees have been paid, or he would not have returned the survey. To strengthen this presumption, two certificates of the assistant treasurer of the United States at San Francisco, (No. 3,) one of $545, and the other of 55, have been deposited with me by the claimants, which, with the papers, are returned to you. The sums mentioned in these certificates, it is alleged by the claimants, and I may fairly presume, were deposited for this survey,

Very respectfully, your obedient servant,

J. P. USHER, *Secretary.*

Hon. J. M. EDMUNDS,
Commissioner of the General Land Office.

That it was manifestly the duty of the Interior Department to make these orders, is apparent from the express provisions of the law. See act of 1851, to ascertain and settle private land claims in California, vol. 9, pp. 631–34, sec. 13, which provides that "for all claims finally confirmed by the said commissioners, or by the said district or Supreme Court, a patent SHALL issue to the claimant upon his presenting to the General Land Office an authentic certificate of such confirmation, and a plat or survey of the said land, duly certified and approved by the surveyor general of California."

That this claim was so finally confirmed by the district and Supreme Court at the time and before the date of the Secretary's order is not to be questioned. The facts are recited in the order of Secretary Smith, as they appear in Senate Ex. Doc. 48, part 3, Fortieth Congress. It is also a fact appearing therein, page 16, that the surveyor general of California, E. F. Beal, did make the plat and survey as of date September 11, 1862, in pursuance of the act of June 2, 1862, United States Statutes at Large, vol. 12, pp. 410, 411. It also appears, from the letter of D. E. Sickles, p. 96 of Senate Ex. Doc. 48, part 3, Fortieth Congress, that the President ordered that the patent should issue, and that the same was thereupon engrossed and signed, ready for delivery.

These orders having been made, it was by law made the duty of the

General Land Office to make a record of the same. (See Brightly's Digest, vol. 1, p. 463.)

The act of 1836, section 4, provides that the recorder of the General Land Office shall certify and affix the seal of the General Land Office to all patents for public lands, and shall attend to the correct engrossing, sealing, and transmission of such patents; and by act of March 3, 1841, vol. 5, section 2, p. 417, "it shall also be the duty of the recorder to countersign all patents."

Accordingly, a record of the patent to Gomez was made, as hereinafter shown; but, for reasons never explained, the fact of the record was concealed and the knowledge thereof withheld by the Commissioner of the General Land Office.

That the original patent never was delivered does not affect the question now before us; for without delivery the record is *prima facie* evidence of title.

In Opinions of Attorneys General, vol. 3, p. 654, Mr. Crittenden says:

> The patent was issued by authority and direction of law; and upon general principles, where the patentee does not expressly dissent, his assent and acceptance are to be presumed from the beneficial nature of the grant. But it is hardly necessary to resort to such presumptions; because, in this and all such cases, the acts required to be done by the claimant, and actually done by him in the preparation of his claim for patenting, are equivalent to a positive demand of the patent, and amount to an acceptance of it. The patent, in the meaning of the act referred to, is granted to the patentee from its date, though he may never actually see or receive it, and is valid and effectual to pass the title of the land."

By direction of the Judiciary Committee of the House, as appears by Senate Ex. Doc. 48, part 3, p. 79, Fortieth Congress, third session, its chairman, James F. Wilson, addressed to the Commissioner of the General Land Office the following letter:

THIRTY-NINTH CONGRESS UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., January 17, 1867.

SIR: Will you have the kindness to send me, for the use of the House Judiciary Committee, at as early an hour as possible, a copy of the patent which was prepared and executed, but never delivered, in the case of the Panoche Grande land grant?

Yours truly,

JAMES F. WILSON.

HON. JOSEPH S. WILSON,
Commissioner General Land Office.

On the 18th of January, 1867, the Commissioner, Joseph S. Wilson, replied to this letter as follows:

DEPARTMENT OF THE INTERIOR,
General Land Office, January 18, 1867.

SIR: Pursuant to your request of yestesday, received this morning, I have the honor to inclose herewith the original *unexecuted* patent for the Panoche Grande rancho.

With great respect, your obedient servant,

JOS. S. WILSON,
Commissioner.

HON. JAMES F. WILSON,
Chairman Judiciary Committee House of Representatives.

Why did the Commissioner not furnish the record, knowing, as he did, that the law made it evidence conclusive of a patent duly executed by the President?

Early in July, 1870, the committee were notified by counsel for McGarrahan that a record had been discovered of an executed patent for this Gomez grant in the record of the General Land Office of the United States, and on the 7th of July, 1870, the Judiciary Committee of this House, having requested the production of the record, were duly

notified that the record should be sent to the committee, which was accordingly done on the 8th of July, 1870. Volume 4 of the records of California Mexican confirmed land grants contains a grant to Gomez as follows:

1 THE UNITED STATES OF AMERICA.

To all to whom these Presents shall come, Greeting:

Whereas, It appears from a duly authenticated transcript, filed in the General Land Office of the United States, that pursuant to the provisions of the act of Congress approved the third day of March, one thousand eight hundred and fifty-one, entitled "An Act to ascertain and settle the Private Land Claims in the State of California," Vicente P. Gomez, as claimant, filed his petition on the ninth day of February, 1853, with the Commissioners to ascertain and settle the private land claims in the State of California, sitting as a Board in the city of San Francisco, in which petition he claimed the confirmation of his title to a tract of land called Panoche Grande, of the extent of four square leagues, situated in the County of San Joaquin, and State aforesaid; said claim being founded on a Mexican grant to the petitioner, made in the year 1844, by Manuel Micheltorena, then Governor of Upper California;

And whereas, the Board of Land Commissioners aforesaid, on the 6th day of March, 1855, rendered a decision rejecting said claim, which decree or decision was, on appeal, reversed by the District Court of the United States for the Southern District of California, by decree rendered as follows:

"Vicente P. Gomez, appellant, vs. The United States, appellee; case No. 393, 'Pano-
"che Grande.' Transcript No. 569. Decree. This cause came on to be heard on appeal
"from the decision of the United States Board of Land Commissioners to ascertain and
"settle the private land claims in the State of California, under an Act of Con-
2 "gress approved March 3, 1851, on a transcript of the decision and proceedings
"of said Board, and the papers and evidence upon which said decision was made,
"and the other evidence adduced by the appellant before this Court, and it appearing
"to the Court that said Transcript and notice of intention to appeal have been duly
"filed according to law, and counsel for the respective parties having been heard,
"It is ordered, adjudged, and decreed, that the decision of said Board of Land Com-
"missioners be, and the same is hereby, reversed; and that the claim of said appellant
"is good and valid; and the same is hereby confirmed to him as follows, to wit: the
"tract of land situate in the County of Fresno, State of California, known by the name
"of 'Panoche Grande,' bounded northerly by the lands of Don Julian Ursua, southerly
"by the hills, easterly by the valley of the Tulare, and westerly by the lands of Don
"Francisco Arias, containing four square leagues of land and no more, provided that
"quantity is contained within the boundaries aforesaid, and provided also that if a
"less quantity is contained within the boundaries aforesaid, that confirmation of such
"less quantity is hereby made to said claimant, and for a more particular description
"of which said land reference is hereby made to the map contained in the Transcript
"in this case.

"And it also appearing to this Court that heretofore, to wit: on the 5th day of June,
"A. D. 1857, at a regular term of this Court holden in the town of Monterey, State of
"California, the claim of the appellant in this case had been confirmed by this Court,
"but that it had been omitted by this Court to sign the decree of confirmation
3 "at the time the same was made: It is therefore further ordered by this Court
"that the same be signed now as for then.

"Given under my hand in open Court this 5th day of February, A. D. 1858

"ISAAC S. K. OGIER,

"*U. S. Dist. Judge for the S. Dist. of Cala.*"

And whereas, it further appears from a duly certified extract on file in the General Land Office, from the minutes of the Supreme Court of the United States, that this cause being brought by appeal before the said Court at the December term, 1858, the following proceedings were had therein: "Now on this day this cause coming on to be
"heard, the parties appearing by their respective attorneys, the appellant by Sloan &
"Hartman, Esqs., and the appellees by P. Ord, U. S. Dist. Atty., and after argument of
"counsel aforesaid, the same is submitted to Court for final adjudication. Whereupon
"the Court being fully advised in the premises, delivered its opinion confirming the
"claim of the appellant to the extent called for in the Transcript and papers, three
"leagues or sitios de gañada major, and a decree was ordered to be entered up in con-
"formity with said opinion;" and thereafter, to wit, at the December term, 1859, of the Supreme Court of the United States the following order was made in this case: "The
"United States, appts, vs. Vicente P. Gomez. Appeal from the District Court of the
"United States for the Southern District of California."

"On consideration of the motion made in this cause on a prior day of the present "term, to-wit: on Friday the 27th day of January, A. D. 1860, by Mr. Attorney Gen- "eral Black, to rescind the order and decree of this Court of the 31st day of January, "1859, docketing and dismissing this appeal, and to revoke and cancel the man- "date issued by this Court to the District Court of the United States for the 4
"Southern District of California, and of the argument of counsel thereupon had "as well in support of as against the said motion: It is now here ordered by this "Court that the aforesaid decree of this Court docketing and dismissing this appeal be "and the same is hereby rescinded and annulled, and that the mandate issued by this "Court to the District Court of the United States for the Southern District of Califor- "nia in this case be and the same is hereby revoked and canceled; and it is further "ordered by this Court that the Clerk of this Court do forthwith send a certified copy "of this order to the aforesaid District Court of the United States for the Southern "District of California."

And whereas, it further appears from a duly certified transcript on file in the General Land Office, that an order having been made in the District Court of the United States for the Southern District of California, granting a new trial in this case, the said Court on the 4th day of August, 1862, on a motion to vacate and set aside said order, made the following order: "Vicente P. Gomez, appellant, vs. The United States, ap- "pellee, D. C. No. 393, L. C. No. 569. 'Panoche Grande.' On this day the Court delivers "its opinion in this case granting the motion heretofore made by the appellant herein "praying the Court to vacate and set aside the order of Hon. Isaac S. K. Ogier, late "Judge, granting a new trial in this cause. And it is hereby ordered that the previous "order of this Court made and entered on the 21st day of March, 1861, setting aside "all proceedings had in this cause, and placing the same on the Calendar for trial *de* "*novo*, be and the same is hereby, vacated and set aside."

And whereas, it further appears from a duly certified transcript on file in the 5
General Land Office of the United States, that an order having been made on the 25th day of August, 1862, in the District Court aforesaid, allowing appeal in this case to the Supreme Court of the United States, the said District Court, at the December term, 1862, made the following order: "Vicente P. Gomez vs. The United States, "No. 393, Panoche Grande. In this case the court delivered an opinion on the motion "submitted the day before yesterday, and ordered that the appeal taken on the twenty- "fifth day of August, A. D. 1862, by the United States to the Supreme Court of the "United States from the final decree of confirmation herein be vacated and set aside, "and it is further ordered, that the order of this Court made on the said 25th day of "August, A. D. 1862, allowing said appeal, be and the same is vacated and set aside, "and the motion of the United States District Attorney for leave to take an appeal on "behalf of the United States to the Supreme Court of the United States from the said "final decree be and the same is denied."

And whereas, there has been presented to the Commissioner of the General Land Office a plat, with a certificate of the survey of the said claim, authenticated by the signature of the Surveyor General of the public lands in California, said survey having been made pursuant to the act of Congress approved June 2, 1862, entitled "An act "for the survey of grants or claims of land," said plat and certificate being in the words and figures following, to wit:

"UNITED STATES SURVEYOR GENERAL'S OFFICE, 6
"*San Francisco, California.*

"Under and by virtue of the provisions of the act of Congress of the 2d of June, "1862, entitled 'An act for the survey of grants or claims of land,' and in consequence "of a certificate of the United States District Court for the Southern District of Cali- "fornia, a copy of which is hereto annexed, by which it appears that a decision of the "said District Court has been had, recognizing and confirming the title claim of "Vicente P. Gomez to the tract of land designated 'Panoche Grande,' the said tract "has been surveyed in conformity with said decision, and I hereby certify the annexed "map to be a true and accurate plat of said tract of land as appears by the field-notes "of the survey thereof made by E. H. Dyer, Deputy Surveyor, in the month of July, "1862, under the direction of this office, which, having been examined and approved, "are now on file therein.

"And I hereby certify that the said tract of land is bounded and described as fol- "lows, to wit:

"Beginning at post in earth mound corner to sections one, two, eleven, and twelve, "township seventeen south, range eleven east of Mount Diablo meridian, from which "post a point on the highest ridge of the Lomas Muert as (a high range of barren and "broken mountains, the eastern slope of which forms the western edge of Tulare "Valley) bears north nine degrees west, distant about two miles.

"Thence according to the true meridian, the variation of the magnetic needle being "fifteen degrees thirty minutes east, over rolling land to the north of a small

7 "valley called Vallecito, north forty chains to post in earth mound on quarter "section corner between sections one and two. Station.

"Thence west eighty chains to quarter section corner on line between sections two "and three. Station.

"Thence north forty chains to post in earth mound, corner to sections two and three "on fourth standard line south. Station.

"Thence west, at forty chains quarter section post in earth mound eighty chains to "post in earth mound corner to sections three and four on fourth standard line south. "Station.

"Thence through township sixteen south, range eleven east, north forty chains to "station.

"Thence through middle of sections thirty-three and thirty-two, west one hundred "chains to station.

"Thence south, at forty chains intersects fourth standard line south twenty chains "west of post corner to sections four and five; thence with a variation of fifteen "degrees thirty-five minutes east through township seventeen south, range eleven east "parallel to its eastern boundary; at sixty chains enters Vallecito Valley, course north-"west and south of east one hundred chains to station.

"Thence east twenty chains to station on line between sections four and five, thence "south, at thirty chains leaves small valley, thence over broken hills near southern "edge of said valley, sixty chains to quarter section corner between sections eight and "nine. Station.

"Thence east, eighty chains to quarter section corner between sections nine and ten. "Station.

"Thence south, forty chains to corner to sections nine, ten, fifteen and sixteen. "Station.

8 "Thence east, one hundred and twenty chains to quarter section corner between "sections eleven and fourteen. Station.

"Thence through section fourteen, south sixty chains to station.

"Thence east twenty chains to station.

"Thence south, twenty chains to station on line between sections fourteen and "twenty-three.

"Thence on section line east, sixty chains to quarter section corner on line between "sections thirteen and twenty-four. Station.

"Thence through middle of sections twenty-four, twenty-five, and thirty-six, over "high and rough mountains, south two hundred chains to center of section thirty-six. "Station.

"Thence east, at forty chains quarter section post in earth mound on line between "ranges eleven and twelve east; thence through township seventeen south, range "twelve east, eighty-two chains and fifteen links to center of section thirty-one. "Station.

"Thence south, at forty chains quarter section post in earth mound on line between "townships seventeen and eighteen south, sections thirty-one and six, on top of a ridge "course northwest and southeast, thence through township eighteen south, range "twelve east, two hundred and eighty chains to quarter section corner between sec-"tions eighteen and nineteen. Station.

"Thence on section line, west twenty chains to station.

"Thence through section nineteen, south sixty chains to station.

"Thence east, twenty chains to station.

"Thence south, twenty chains to quarter section corner between sections nineteen "and thirty. Station.

"Thence on section line east, sixty chains to station.

9 "Thence through section twenty, north sixty chains to station.

"Thence east, twenty chains to station.

"Thence north twenty chains to quarter section corner between sections seventeen "and twenty. Station.

"Thence on section line east twenty chains to station.

"Thence through section seventeen, north forty chains to station.

"Thence east, twenty chains to quarter section corner between sections sixteen and "seventeen. Station.

"Thence on section line, north eighty chains to quarter section corner between "sections eight and nine. Station.

"Thence through section nine east forty chains to center of section nine, from which "the Panoche Grande Peak bears south fifty-six degrees east, distant about seventy "chains. Station.

"Thence north at forty chains quarter section post in rock mound on line between "sections four and nine, from which a pine tree bears north fifty-two degrees east, "distant twenty-four links, another pine tree bears south fifteen degrees west, distant "nineteen links, and the San Carlos Peak in the northeast quarter of section four bears

" north twenty-two degrees east; thence through section four, at fifty-four chains and
" fifty links across Arroyo Panoche Grande, course northwest sixty chains to station.
"Thence east twenty chains to station.
"Thence north twenty chains to station.
"Thence east, twenty chains to quarter section post in earth mound on line between
" sections three and four. Station.
"Thence on section line with a variation of fifteen degrees fourteen minutes 10
" east, north; at forty chains and forty links intersects line between townships
" seventeen and eighteen south, range twelve east, at post in earth mound corner to
" sections three, four, thirty-three and thirty-four; thence through township seventeen
" south, range twelve east, over high and broken mountains with a variation of fifteen
' degrees thirty-eight minutes east, eighty chains and forty links to quarter section
" post in earth mound between sections thirty-three and thirty-four. Station.
"Thence through section thirty-three, with a variation of fifteen degrees twenty-
" seven minutes east, west forty chains to center of section thirty-three, from which a
" marked cedar tree, eight inches diameter, bears west, distant forty chains. Station.
"Thence through middle of sections, with a variation of fifteen degrees thirty-eight
" minutes east, north at forty chains post in earth mound at quarter section corner
" between sections twenty-eight and thirty-three one hundred and twenty chains to
" post in earth mound at quarter section corner between sections twenty-one and
" twenty-eight, two hundred chains to a sandstone twelve inches long, ten inches wide
" and eight inches thick, in a rock mound in deep rocky gulch, from which a steep
" rock cliff bears north forty-five degrees east; said sandstone is set for quarter section
" corner between sections sixteen and twenty-one; thence over alkali hills two hun-
" dred and eighty chains to quarter section post in a mound of alkali soil between
" sections nine and sixteen. Station.
"Thence with a variation of fifteen degrees fifty-nine minutes east, west forty 11
" chains to post in mound of alkali soil, corner to sections eight, nine, sixteen, and
" seventeen. Station.
"Thence on section line with a variation of fifteen degrees thirty-eight minutes east,
" north forty chains to quarter section post in mound of alkali earth. Station.
"Thence through section eight, with a variation of fifteen degrees fifty minutes east,
" west forty chains to center of section eight. Station.
"Thence with a variation of fifteen degrees thirty-eight minutes east, north forty
" chains to a sandstone rock twelve inches long, ten inches wide and eight inches thick
" in mound of alkali earth, quarter section corner on line between sections five and
" eight. Station.
"Thence on section line with a variation of fifteen degrees fifty-four minutes east,
" west at thirty chains thirty-eight links enters the narrow valley of the Arroyo Pan-
" oche Grande, at thirty-nine chains eighty-eight links across Arroyo Panoche Grande
" fifty links wide course north ten degrees east; thence over low hills, forty chains and
" thirty-eight links to post in mound at corner to sections five, six, seven, and eight;
" thence on section line with a variation of fifteen degrees thirty minutes east, eighty
" chains and thirty-eight links to quarter section post in earth mound, one hundred and
" twenty chains and thirty-eight links to post in earth mound at corner to sections one,
" six, seven, and twelve on line between ranges eleven and twelve east; thence through
" range eleven east, one hundred and sixty chains and thirty-eight links to quar-
" ter section post in mound two hundred chains and thirty-eight links to point 12
" of beginning, containing seventeen thousand seven hundred and sixty-eight
" and seventy-seven one-hundredths acres, and being designated in the plat of public
" surveys as lot number thirty-seven, township sixteen south, range eleven east, lot
" number thirty-seven, township seventeen south, range eleven east, lot number
" thirty-seven, township seventeen south, range twelve east, and lot number thirty-
" seven, township eighteen south, range eleven east, all of Mount Diablo meridian.
"In witness whereof I have hereunto signed my name officially, and caused
[SEAL.] " the seal of my office to attached, at the city of San Francisco, this eleventh
" day of September, one thousand eight hundred and sixty-two.
"E. F. BEALE,
" *U. S. Surveyor General, California.*"

And whereas, application having been made for the issue of a patent upon the 13
foregoing survey, the Secretary of the Interior, under date of 29th December, 1862, rendered his decision, in which, upon recital in substance of the proceedings had in the matter and review, it is held as follows: that "the decree of the district court for the southern district of California, confirming the grant, has become final;" that "the United States has no longer any interest in the controversy;" that "no claim of third parties has been interposed;" that "the suggestions of fraud in the grant, or in the manner of procuring its confirmation, are *res adjudicata*," and he is "unable to discover any reasons why a patent should not be issued in conformity with the decree of the court and the survey," and ordered the issue of "a patent for the land in accordance with the survey as reported by the surveyor general."

Now know ye, that the United States of America, in consideration of the premises, and pursuant to the provisions of the acts of Congress and decisions aforesaid, have given and granted, and by these presents do give and grant unto the said Vicente P. Gomez, and to his heirs, the tract of land embraced and described in the foregoing survey, with the stipulation that said survey under the aforesaid act of June 2d, 1862, shall "be taken as *prima facie* evidence only of the true location of the land granted," and with the further stipulation that, in virtue of the 15th section of the said act of March 3d, 1851, the confirmation of this said claim and this patent "shall not affect the interest of third persons."

To have and to hold the said tract, with the appurtenances, unto the said
14 Vicente P. Gomez, and to his heirs and assigns, forever, with the stipulations aforesaid.

In testimony whereof, I, Abraham Lincoln, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, this fourteenth day of
[SEAL.] March, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the United States the eighty-seventh.

By the President: ABRAHAM LINCOLN.

By W. O. STODDARD, *Secretary*,
Acting Recorder of the General Land Office.

This record is marked "examined," in this form "ex'd." The record having been completed and marked examined as aforesaid, has pencil lines drawn over the words "fourteenth March, sixty-three, and eighty-seventh;" and has also pencil lines drawn over the names "Abraham Lincoln, W. O. Stoddard," and the word "acting;" and has also written on the margin of the page, in pencil, the words "not signed." It is not indicated by anything upon the record of the patent when and by whom these obliterations by pencil lines were made, or these words in pencil, "not signed," were written. An unexecuted patent, corresponding in all respects with this record, except the words and names erased in pencil, as before mentioned, and the words "not signed," was exhibited to the committee by the Commissioner of the General Land Office. It will be observed by the House, that the Commissioner of the General Land Office, Joseph S. Wilson, in certifying an authenticated copy of this record, states in his certificate of the date of July 25, 1870, among other things:

That on the said record pencil lines are drawn across the date, the name of the President and the President's secretary, and the words "not signed" are written in pencil in said record.

The House will notice that at that time the Commissioner says nothing of the pencil line drawn across the word "acting" on the record, while the authenticated copy has a pencil line drawn across this word. The House will also observe, that in said certificate the said Commissioner certifies that the patent is unexecuted and unsigned both by the President and recorder; whereas he testifies on oath before the committee that he does not know whether that certificate is true, and is not prepared to swear that the said patent was never signed by the President.

On the same 25th of July, 1870, after the inspection of this record had been called for by the committee, and after Congress had adjourned, the matter still pending before this committee for its final decision under the order of the House, the following was written across the face of the record of said grant to Gomez, to wit:

DEPARTMENT OF THE INTERIOR,
General Land Office, July 25, 1870.

This record, from pages 312 to 321, inclusive, was made in accordance with the custom at the time, in anticipation of the original being submitted to the officers whose duty it is, under the law, to sign land patents; but an order, dated March 13, 1863, having been received from the Acting Secretary of the Interior to suspend the execution

and delivery of the patent under the decision of the Department of the 4th of March, 1863, until further advised in the case by the Secretary, the form of patent which had been prepared, and from which the aforesaid record was made, was not submitted for signature, and has never been dated, signed, nor delivered.

JOS. S. WILSON, *Commissioner.*

J. N. GRANGER, *Recorder.*

It is provided by law, as above shown, that all patents for public lands shall be duly sealed and recorded. It is also provided that a secretary shall be appointed by the President, with the advice and consent of the Senate, whose duty it shall be, under the direction of the President, to sign in his name and for him all patents granted for lands under the authority of the United States; and it is further provided that it shall be the duty of the Commissioner to cause to be prepared a certificate, under the seal of the General Land Office, and such copy of the records on file in his office as may be applied for, to be used in evidence in courts of justice.

It is reasonable to conclude that no record would be made, as this record manifestly was made, complete in all respects, save the name of the recorder, unless the same had been signed by the President and sealed, for the law does not authorize it. Having been marked "examined," the record manifestly imports that what was there recorded had been compared with the original, and was found to be a true record thereof in all respects, including the dates, the seal, and the name of the President and his secretary as therein written. It was the duty of the recorder to countersign this patent, made so by positive law. It is to be presumed he did his duty.

It is useless, and worse than useless, to suggest that the examiner, who was authorized by the law to indorse, as he did indorse, "examined" on this record, did so after the obliterations by pencil lines, and the indorsement of the words "not signed" in pencil, had been made on this record. Such a certificate of record that it had been examined after such mutilation, and the indorsement also, "not signed," was not only useless, but unauthorized by any law whatever.

The minority insist that no record or grants can be made until signed by the President, and, when made, such record cannot be impeached or avoided by lines drawn over its face by any one, and especially by one in the employ of parties who have an interest to be advanced by the concealment or mutilation of the record.

We submit to the consideration of the House the provisions of the act of March 3, 1843, (5 Statutes at Large, pages 627 and 628,) and which, among other things, provides—

That literal exemplifications of any such records which have been or may be granted in virtue of the provisions of the seventh section of the act approved on the 4th day of July, 1836, entitled "An act to reorganize the General Land Office," shall be deemed and held to be of the same validity in all proceedings, whether at law or in equity, wherein such exemplifications are adduced in evidence, as if the names of the officers signing and countersigning the same had been fully inserted in such record.

The undersigned submit to the House that both the certificate authenticating the transcript of said record, before the committee, and herewith published, and the indorsement written across the face of said record, each bearing date the 25th of July, 1870, were not only unauthorized by law, but in direct contravention of the above-recited act and the act of 1836. (United States Stat. at Large, vol. 5, page 107.) It will also be borne in mind that this record was made in the year 1863, and it is presumed to have been made on the day of its date, the 14th of March, 1863. At that time Joseph S. Wilson, who makes this certificate, was not Commissioner of the General Land Office, nor was he

such Commissioner for years thereafter. Nor was Mr. Cox Secretary of the Interior. This being understood, we inquire again by what authority of law Joseph S. Wilson thus mutilated the record by writing across its face, on the 25th of July, 1870, the words:

> The form of patent which had been prepared, and from which the aforesaid record was made, was not submitted for signature, and has never been dated, signed, nor delivered.

We submit that when a matter within his jurisdiction was passed upon by the head of the Department, as in this case, and also by the President, no order short of that of the President himself, who made it, could authorize any such interference in the premises. Chief Justice Taney, as Attorney General, vol. 2, Opinions of Attorneys General, p. 463, says:

> Unless claims finally decided by the proper Department shall, in general, be considered *res judicata*, every change in the officers thereof will produce a new hearing of the same, and the accounts of the Government will remain open and undecided.

The Attorney General further says in this opinion, that from the decision of the head of the Department, "the party may carry his appeal to the President, who may affirm or reverse the decision;" and from his decision, he adds, an appeal may be had to Congress.

And in the United States *vs.* Arredondo *et al.*, 6 Peters, 729, the Supreme Court of the United States say:

> If any jurisdiction is given, and not limited, all acts done in its exercise are legal and valid; if there is a discretion conferred, its abuse is a matter between the governor and his government, &c. (King *vs.* Picton, late governor of Trinidad, 30 St. Tr., 868–871.)
>
> It is a universal principle, that where power or jurisdiction is delegated to any public officer or tribunal over a subject-matter, and its exercise is confided to his or their discretion, the acts so done are binding and valid as to the subject-matter; and individual rights will not be disturbed collaterally for anything done in the exercise of that discretion within the authority and power conferred. The only questions which can arise between an individual claiming a right under the acts done and the public, or any person denying its validity, are, power in the officer and fraud in the party. All other questions are settled by the decision made or the act done by the tribunal or officer, whether executive, (1 Cranch, 170, 191,) legislative, (4 Wheat., 423; 2 Pet., 412; 4 Pet., 563,) judicial, (11 Mass., 227; 11 S. & R., 429, adopted in 2 Pet., 167, 168,) or special, (20 J. R., 739, 740; 2 Dow. P. Cas., 521, &c.,) unless an appeal is provided for, or other revision, by some appellate or supervisory tribunal, is prescribed by law.

In point of fact this certificate of Commissioner Wilson is not only contradicted by the record, but is contradicted by the testimony before this committee of William O. Stoddard, who was in the year 1863 the secretary of Abraham Lincoln, President of the United States, duly appointed by the President and confirmed by the Senate of the United States to sign patents under his direction in his name. He swears before the committee that he signed a patent in the name of Abraham Lincoln, and as his secretary, for Panoche Grande in the spring of 1863; that he remembers there were *three* patents, brought about the same time, and that he recollects it was in March, 1863. He also states that the other *two* patents brought about the same time were patents for the Honcut and Canard Deparle. He further testified that the record as originally made up shows the signing of the President's name and his own in the manner that "was the customary way of appending the signatures;" that he examined the grant for Panoche Grande at the time he signed it, and called the attention of others to it at the time, and that it was done at the office of the Executive Mansion. We submit, however, this testimony, together with all the other testimony bearing upon this point, for the consideration of the House, and ask that it be printed herewith.

Mr. Granger, the recorder, being sworn before this committee, states that he was recorder at the time named in the record in 1863; that he does not know, and could not say, whether the patent for Panoche Grande was ever presented to him or not, to be countersigned; that he kept no record of California land grants, except the letters of transmission from the Commissioner of the General Land office; that he keeps these letters on file in his office; that upon an examination last summer, being called upon to know if there was any such letter, he made some examination, and since that time, upon a further examination, he found that in 1863 there were no letters from January down to June remaining on his files; that the files for that year from July until December were all there; that he knows letters of transmission, between January and June, 1863, had been received by him; that there were fifty-one letters of transmission of land grants between January and June, 1863, and there must have been more patents than that, as sometimes a single letter would inclose a large number of patents; that there must have been taken at least fifty-one letters of transmission from his office, which came to him from January to June, 1863, and he has no knowledge what has become of them; that he kept the letters locked in a case in his office; that he attached his name to the certificate written across the face of the record of date July 25, 1870; that he does not know that the statement of the certificate, signed by him, and written across the face of the record, is true; that he does not know that the patent from which the record was made never was dated or executed; that he so stated at the time he signed the certificate; that he signed the certificate under the written order of Secretary Cox, and verbal order of Mr. Wilson, the Commissioner, that he should sign it as written.

Joseph S. Wilson, the Commissioner of the General Land Office, testified before the committee that he had no knowledge on the subject whether the patent recorded for Panoche Grande was ever signed; nor does he know whether it was signed, sealed, and dated or not; neither does he know whether it was ever presented for signature or not, and has no knowledge that will enable him to swear that it never was presented for signature.

It may be noted here that reference is made to a letter of Acting Secretary Otto, dated 13th March, 1863, directing the Commissioner to suspend the execution and delivery of the patent.

As the patent recorded bears date March 14, 1863, being subsequent to the order of Acting Secretary Otto, and was signed by the President himself, as sworn to by his private secretary and evidenced by the record, it must be presumed that the President's act superseded the order of Mr. Otto, and enjoined upon the officers of the Land Office the duty of recording the patent as required by law.

It is not to be overlooked that an effort is made by some of the witnesses to show a custom violative of the statutes herein referred to, and violative as well of the rights of the people of the United States, to wit: that records may be made of grants before any grant has, in fact, been signed by the President. It is simply an effort, which happily has failed, to establish a special custom against the positive requirements of the law. This cannot be tolerated. But we ask attention to the law as to special customs:

> Special customs must be immemorial, continued, peaceable, reasonable, certain, compulsory upon every person, and consistent with general customs and the statute law. (1 Black. 77, 78.)

The minority, without professing to review all the testimony, call especial attention to the further fact, sworn to by himself, that William

H. Lowry, who was employed by the New Idria Mining Company about the year 1867, and has remained in the employ of said company ever since, states that about the date of the pencil mark, or the pencil date on the record, he compared the record; that he erased the name of the said secretary in the record, by crossing it in pencil, and writing on the margin in pencil "not signed;" that they remained until lately, and are probably there still; but he added that he did this on comparing the record and receiving an order to withhold the patent. On the inquiry being made, "Is there any pencil date to it?" he answers: "There is a pencil date on the record, and that is the only way I can identify the time."

The minority respectfully submit that there is no pencil date upon the record and never was. This witness further states that he knows of no case other than this marked "examined" on the record, which was without the seal of the General Land Office, the name of the President, and date.

The record was not marked examined by Mr. Lowry, but by Mr. Stoek.

As to any proceedings in the Supreme Court between the United States and Gomez, subsequent to the action herein before stated of the Executive Department, and after the 14th March, 1863, we do not deem it necessary to say anything in relation thereto. But we deem it important to notify the House that the contest which has been continued against the action of the Executive Department upon this claim, while it has been ostensibly in the name of the United States, has been, in fact, carried on at the expense of the United States for the exclusive benefit of the New Idria Mining Company. The company was organized about the year 1858, in the State of California, and wrongfully, about that time, entered upon, and has since wrongfully occupied as mere trespassers, the tract of land in dispute, and now seeks to obtain a grant from the Government of the United States for 480 acres thereof, which includes the mines, and is supposed to be the chief value of the tract, for the paltry sum of $2,400, when its estimated value, as stated by a late attorney general, is perhaps three million. This last proposition of the company to take all, or nearly all, that is valuable of the tract for $2,400, when the memorialist, in accordance with the action of this House, in the Fortieth Congress, tendered $22,000 to the Government for the land, is only another illustration of the care with which the New Idria Company guards the interests of the United States.

The counsel who appeared before the committee on behalf of the company, the Hon. Mr. Evarts, stated in his argument (on page 18) when speaking of this tract of land, that "we (meaning the company) have no title, and knew that we had no title." Yet it is claimed that by reason of the occupancy and improvement under the act approved 26th July, 1866, (Stat. at Large, vol. 14, pp. 251, 252, 253,) the company may rightfully demand of the Government a patent for 480 acres of the tract.

In our opinion there is no color of right in the New Idria Company to make this demand of the Government. It has occupied the land, as we said, only as trespassers, and has more than reimbursed itself for all the improvements it has made, and has never paid to the United States anything whatever for the same. The act of 1866 opens the mineral lands only "to citizens of the United States, or those who have declared their intentions to become citizens." Surely this provision does not contemplate an occupancy by aliens and non-residents.

On the 24th of January, 1868, D. O. Mills testified as to the persons constituting the company, as follows:

D. O. MILLS sworn and examined.

By Mr. LAKE, counsel for the New Idria Quicksilver Mining Company:

Question. You are a resident of California, and the president of the Bank of California?—Answer. Yes, sir.

Q. Can you state some of the principal stockholders of the New Idria Mining Company?—A. Barron & Co.—consisting of W. E. Barron, Thomas Bell, Joseph Barron, (all foreigners,) and some others whom I do not know, *being in foreign countries*—own, perhaps, half the stock. I own about one-eighth of it, and Mr. Rawston owns about one-eighth.

By Mr. WOODBRIDGE:

Q. What, in your judgment, is the property worth?—A. I should think it is worth from $500,000 to $750,000 in gold. That may be over-estimating it.

By Mr. ELDRIDGE:

Q. How much of the mining estate do you include in that?—A. I include the whole mining estate; the whole Idria mines proper.

Q. What do you claim that that covers?—A. The mine as developed does not cover nearly what the company has put in for. The company has put in for 3,000 or 4,000 acres.

It appears from this testimony that one-half of the stock of this company is owned by aliens.

The second section of the act provides that upon occupation and improvement of the mineral lands, and an actual expenditure thereon of an amount not less than $1,000 by the person or association of persons so occupying, "and in regard to whose possession there is no controversy or opposing claim, it shall and may be lawful for said claimant or association of claimants to file in the local land office a diagram of the same, &c., and to enter such tract, and receive a patent therefor, granting such mine, together with the right to follow such vein or lode with its dips, angles, and variations, to any depth, although it may enter the land adjoining, which land adjoining shall be sold, subject to this condition."

We have shown that from the time the New Idria Mining Company occupied, in regard to their possession of the premises there has been and still is controversy and opposing claim.

It is further provided in section four of said act that not more than 3,000 feet shall be taken in any one claim by any association of persons, and yet this company has filed its survey for 480 acres, and demanded a patent therefor, without color of right.

This company has employed the agents of the United States to defend its wrongful possession, and secure to itself the proceeds of the land in controversy, ever since the decree was rendered in favor of the memorialist in the United States court, in 1858, as of June 5, 1857.

E. L. Goold, of counsel for the New Idria Company, testified before the committee of this House, January 25, 1868, as follows:

WASHINGTON, D. C., *January* 25, 1868.

E. L. GOOLD sworn and examined as a witness: I have before me a letter dated March 3, 1861, from Edwin M. Stanton, Attorney General, to me, stating that I was employed in this case. I made the assignment on the back of it to Beale, in order to have it collected either by his brother-in-law, Evans, or himself, I forget which. Beale did not come, for reasons which I now forget, and I collected the money myself when I was in this city the following year. I have here a letter from the Treasury Department, stating the date at which the money was paid to me personally, which is as follows. I collected this bill for myself.

By Mr. WOODBRIDGE:

Q. In your examination of the case, did you satisfy yourself as to the ground upon which the land commission decided this case?—A. Yes; upon the ground that there was no possession; they said that they were satisfied there was a grant, but there had been no possession.

Q. But between their decision and the decree of the court, the decision of the Supreme Court in the Mariposa case had taken place?—A. Yes.

Q. Was Mr. Whiting, the district attorney for the southern district of California, from New York?—A. He was.

Q. Where did he attach his certificate?—A. In San Francisco.

Q. Was San Francisco in the southern district?—A. No, sir; in the northern district. Information came to San Francisco that the Secretary of the Interior would issue a patent for this land. *Mr. Casserly*, (now one of the new Senators from Calfornia,) who at that time represented Mr. Gibbs's interest, and *myself*, sent a dispatch to Mr. Latham, then Senator from California, to employ Judge Black; that they would allow him $5,000 in the event the motion to dismiss the appeal was refused. Judge Black drew the draft on me personally, at which I was a little surprised. My clients, however, were not then in a condition to pay it, and I had to go round to get it.

Q. Do you know how McGarrahan got hold of that private dispatch?—A. I do not; I think, if I mistake not, that is a true copy of a dispatch sent to me.

By the CHAIRMAN:

Q. During the time you were acting as special counsel for the Government of the United States, were you also counsel of the New Idria Company?—A. Yes, I became so because of my connection with Mr. Stanton; Mr. Stanton wanted to go home and left the case to me; he believed I would be zealous, as I had clients who are strongly interested against the claimants in this case.

By Mr. MCGARRAHAN:

Q. Is there not a claim of Judge Black's still pending before the New Idria Mining Company for his services?—A. I know he had such a claim last year. Whether it has been paid or not I do not know.

By the CHAIRMAN:

Q. You have said you were counsel both for the Government and for the New Idria Company. Were you employed by the Government because of your connection with that company?—A. Because I was counsel for Thompson, which was pretty much the same thing.

Q. Was that prior to the passage of the act by which persons were permitted to purchase and preëmpt lands?—A. Yes, of course.

Q. Did you receive compensation both from the Government and the New Idria Company for this service?—A. From Mr. Thompson; the same thing in substance, though not in form.

By Mr. MCGARRAHAN:

Q. Did you at any time state to John O. Wheeler that this was a valid donation or grant; that the only question was as to its proper location?—A. I never did; I stated to Judge Black, in the Supreme Court, that the petition was genuine; I recollect Judge Black stated it was a forgery; I have no doubt the petition, so far as it went to the governor for this grant, was genuine, but the governor was about that time driven out of that country in consequence of his taking with him three hundred or four hundred convicts from Mexico into California, and I think it very likely he went before Gomez got his grant. I am not at all certain that if Gomez had made his petition in time, he would not have had the grant. He was employed by the governor as a clerk, and was said to have been rather a favorite of his.

Mr. Goold, who thus testified before the committee of this House, on March 20, 1858, addressed the following letter to Attorney General Black:

SAN FRANCISCO, CAL., *March* 20, 1858.

Hon. JEREMIAH BLACK, *Attorney General of the United States:*

SIR: I beg leave to call your attention to two land claims, namely, that of *Francisco Arias*, No. 628, *vs.* United States, claiming the rancho Real de los Aguilas, and that of Vicente Gomez, claiming the rancho Panoche Grande, No. 569 of the land commission, both of which were rejected by the land commissioners, but which, I am informed, have been confirmed by the United States district court for the southern district of California. *There are grave reasons to doubt the genuineness of these grants.*

If the appeals in these cases have not already been dismissed, I have to request in the name of the parties interested, as well as the Government, in the rejection of the claims, that you will not *dismiss the appeals* until an opportunity is afforded to obtain such information, which I am now engaged in seeking, and which will be promptly communicated to you.

His testimony, above given, shows the parties interested, in whose

name he wrote the above letter to Attorney General Black, were the New Idria Mining Company.

On May 19, 1858, he wrote a second letter to Attorney General Black, in which he speaks of "my clients" as follows:

SAN FRANCISCO, *May* 19, 1858.

SIR: Referring to my communication of the 20th of March last, concerning the two land claims of *Francisco Arias*, No. 628, and Vicente Gomez, No. 569, I have to say that information has been obtained rendering it almost certain that the latter-named claimant (Gomez) was not in possession of the land claimed by him prior to the change of flags, and at the next term of the court I shall make to the judge such suggestions as will lead him to open the decree of his own motion.

With regard to the other claim, my clients have failed to learn anything, as they expected to, tending to create a doubt of its genuineness.

Your obedient servant,

E. L. GOOLD,
Counsellor at Law.

HON. JEREMIAH BLACK,
Attorney General of the United States.

The following letter of the late Mr. Stanton shows that Mr. Goold, was employed by authority of Attorney General Black as special counsel for the United States in the case of Gomez, for which service he was paid $1,000 from the Treasury of the United States, ostensibly for services rendered the United States, but in fact rendered for his "clients," the New Idria Mining Company:

In the district court of the United States, southern district of California.

THE UNITED STATES *vs.* VICENTE GOMEZ. } Claimant of the rancho called "Panoche Grande," southern district of California.

ATTORNEY GENERAL'S OFFICE, *March* 1, 1861.

SIR: While I was in California in the year 1858, as special counsel of the United States in law cases, you were employed by me, under authority of the Hon. J. S. Black, Attorney General, to act as special counsel of the United States in the defense of the case, and to aid the district attorney of the United States in reversing the confirmation of the claim in the district court. And it was stipulated that you should be paid by the United States for your services as special counsel the sum of $1,000. This retainer and employment you accepted, and agreed to make your professional services to the United States for that sum; that arrangement has been and is again ratified by this office.

Yours, &c.,

EDWIN M. STANTON,
Attorney General.

E. L. GOOLD, Esq.,
Counselor-at-law.

After Mr. Black retired from the Attorney General's Office, he, too, became special counsel for the United States against the Gomez claim, but in fact, and with Goold, the counsel as well for the New Idria Mining Company, as appears from the following letter and telegraph:

WASHINGTON, *April* 7, 1864.

SIR: You will oblige me by ordering me to be furnished with a copy of your letter addressed to the Secretary of the Interior on the subject of the patent applied for by the claimants of the Panoche Grande ranch, in California. One of the letters is dated October 29, 1862, the other on January 3, 1863.

I am counsel for the United States, and desire to use the letters for the purpose of an argument in the Supreme Court, where a question concerning this title is now pending.

I am, most respectfully, yours, &c.,

J. S. BLACK.

HON. J. M. EDMUNDS,
Commissioner of the General Land Office.

Attention is now asked to the following telegram by Mr. Black, sent

to Goold immediately upon the refusal of the Supreme Court of the United States to dismiss the appeal in the Gomez case in 1864, as follows:

> The Gomez title is as good as dead. I told you so. The court denied the motion to dismiss. I have drawn on you for $5,000 in gold coin, payable at sight, which you promised to pay in the event of the motion to dismiss being denied. Attend to my draft without delay or mistake.
>
> J. S. BLACK.

It is the opinion of the minority that it is unjust alike to the United States and to the claimant of the land, that the New Idria Company should be defended at the expense of the United States, in its wrongful possession and use of this property.

In view of all that has been stated herein, and all the testimony that has been before the committee; and in view of the color of title that is in McGarrahan, that he purchased the land in good faith after the United States Commissioner had found that Gomez had made satisfactory proof of the existence and loss of the grant of this tract, and after the United States district court had ordered a decree confirming the grant to Gomez to the premises in question; and of the fact that the New Idria Mining Company took possession thereof, without any color of title, and have employed the agencies of the United States to defend them in their trespass at the expense of this Government, and have in their employment the person who has obliterated the record, in violation of the law, according to his own sworn testimony, we submit to the consideration of the House the following joint resolution as a substitute for the report of the majority of the committee:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, directed to cause the record on pages three hundred and twelve to three hundred and twenty-one inclusive, in volume four of "California Land Claims," of the patent of a tract of land known as the "Panoche Grande," as set forth therein, to be transcribed into the records as the same stood on the record book of the General Land Office at the time it was examined, without any mutilation or erasure whatever, so that the legal effect of the record so transcribed shall be the same as if the original record had never been interfered with or mutilated; and when such record shall have been so made, as herein provided, it shall be marked *examined*, as it was originally marked. And the President of the United States is hereby authorized and required to do in the premises whatever may, in his judgment, be just and equitable; without regard to any action or proceeding had subsequent to the 14th day of March, 1863, the date of the patent recorded.

NOTE.—The minority of the committee, for the information of the House, further ask that the report of the Judiciary Committee of the Fortieth Congress, Honorable James F. Wilson, chairman, may be published with this report, together with the bill thereto annexed, which bill passed the House, but was never finally acted upon by the Senate.

MAY 8, 1868.—Mr. Wilson, from the Committee on the Judiciary, made the following report:

> The Committee on the Judiciary, to whom was referred a bill for the relief of William McGarrahan, respectfully submit the following report:
>
> The history of this case is composed of such a multitude of circumstances, spread over a period extending from the year 1844 to the present time, that to give it in detail would be to present a report so voluminous as to defeat the very object contemplated by the House in submitting it to the committee—that of information to its members.

It has, therefore, been deemed advisable to exhibit leading and controlling facts, rather than minute and unimportant particulars.

The effort has been to give the present paper a synoptical rather than argumental character, as it is believed a plain but abbreviated narrative will be sufficient to satisfy all inquiries that the bill herewith reported should pass.

An impartial statement of the facts and of prominent proceedings is, in the judgment of the committee, all that is needed to show that Mr. McGarrahan is entitled to the relief he seeks, and to the land in question, as described in his original memorial presented to the House during the Thirty-ninth Congress.

In the year 1844, Manuel Micheltorena, the then governor of Upper California, in accordance with a Mexican custom to confer lands upon deserving officials and citizens, granted to Vicente P. Gomez a tract of land, then, it would seem, considered almost valueless, and situate in the present counties of Fresno and Monterey, State of California. The property was then, and is now, known as "Panoche Grande rancho."

The making of this grant has been denied, and this denial constitutes the principal ground from which has sprung the prolonged and exhausting litigation in the case, extending over a period of more than thirteen years.

The proof of the existence of the grant is satisfactory. It is found mainly in the following facts:

I. The deposition of José Castro, who filled the office of political chief of California, and was also prefect and commandant general, which states that Gomez, with whom he was well acquainted, desired him (Castro) to inform him (Gomez) of a suitable place to petition for or secure, and that he recommended the Panoche Grande.

II. The petition of Gomez to Governor Micheltorena, March 13, 1844, requesting a grant of the rancho.

III. A marginal entry made by the governor, March 14, 1844, on the petition of Gomez, that the proper secretary should cause the necessary investigations to be made and make report.

IV. A declaration of the same date, by Manuel Jimeno, the secretary, that the petition of Gomez had been transmitted to the first justice of San Juan, in order that he should report what would be just in the matter.

V. The report of the justice, dated March 20, 1844, stating that the land was vacant, and that there was no reason why the same should not be granted.

VI. A map of the land, filed in pursuance of the justice's report.

VII. The affidavit of Valentine Gajiola, employed in the Presidial Company of Monterey in 1848, showing that Gomez applied to him to make a map of the rancho; exhibited to him the title papers duly executed, and that he made the map as desired.

VIII. The deposition of José Abrigo, the head of the commissary department, and resident in Monterey, proving that Gomez was a clerk in his office, and that in 1845 he (Gomez) showed him a title to the land named, together with a map of the property; that the papers were signed by the governor and secretary, and that he was well acquainted with the signatures of these officers, having often seen them write; that the archives in which their papers were, passed into the possession of the American army, July 7, 1856.

IX. The testimony of Abrigo, Dr. James L. Ord, a surgeon in the United States Army, and others, proving the destruction of the archives in Monterey, and the fact that such destruction is generally admitted.

X. The deposition of Oscar De Grandé Basque, stating that Gomez, in 1845, showed him title papers for the rancho, and proposed a sale of the land to him.

XI. The affidavit of J. Marno Bonilla, secretary of the superior tribunal of justice in Monterey, stating that Gomez, in 1844, applied to him for stamped paper, to be used in procuring a title to lands; and that in 1845 he saw memoranda of grants of land, among which was that of Panoche Grande to Gomez.

XII. The affidavit of Matias Moreno, secretary of state of Upper California, stating that in 1846 he knew Gomez had obtained a grant for Panoche Grande, and that he saw the grant.

XIII. The affidavits of Maricio Gonzales, José Fernandez, Gabriel de la Torre, Joaquin S. Escamilla, and others, tending to prove the existence of the grant.

XIV. Statement of E. L. Goold, esq., before the Judiciary Committee, that he believed the petition of Gomez was a genuine document, and that he based his opinion on his knowledge of the facts and circumstances connected with the case of said Gomez against the United States, which involved the validity of the grant upon which this case is based. Mr. Goold was of counsel in said case in opposition to the grant, and appeared as a witness before the committee on behalf of the opposing parties.

XV. The grant by Governor Micheltorena, in the year 1844, to Don Julian Ursua, of the tract known as the rancho "La Panoche de San Juan and Los Carrisalitos," wherein the tract is described as being bounded on the south by the mine of "Los Aguilas" and "La Panoche Grande."

XVI. Statement of Henry D. Cooke, esq., that when he was in California, in the

years 1847–'48–'49, it was common report that Gomez had received a grant of a rancho near San Juan from the Mexican government.

XVII. In 1845 the board of land commissioners, at the hearing on the evidence, as required by the laws of the United States, decided that Gomez had given satisfactory proof of the existenee and loss of the grant.

1. In the treaty of Guadalupe Hidalgo, entered into between the United States and Mexico, February 2, 1848, it was provided that property of every kind belonging to Mexicans should be inviolably respected, and that the United States should pass such laws as would give effect to the different stipulations of the treaty, and always thereafter regularly enforce them. This featnre was introduced to secure all landed and other interests that might in any way be affected by a change of jurisdiction over the territory embraced in the treaty. (9 Stat. at L., pp. 229–231.)

2. The law contemplated was passed March 3, 1851, (9 U. S. Stat. at L., p. 631,) creating a board of land commissioners, and declaring among other things, "that each and every person claiming lands in California, by virtue of any right or title derived from the Spanish or Mexican government, shall present the same to the said commissioners, when sitting as a board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claim; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same upon such evidence and upon the evidence produced in behalf of the United States, and to decide upon the validity of the said claim, and within thirty days after the said decision is rendered to certify the same, with the reasons on which it is founded, to the district attorney of the United States in and for the district in which such decision shall be rendered." (Sec. 8.)

3. February 9, 1853, Gomez, in accordance with the provision of the act of March 3, 1851, presented his petition to the board of land commissioners, praying a confirmation of his claim to the rancho Panoche Grande.

4. The board, having fully heard the evidence of the grant, decided that the claimant had given satisfactory proof of the existence and loss of the grant, but had failed entirely to offer any proof whatever going to show that he ever occupied, improved, or cultivated any part of the land, or that any one ever did for him, or that he ever saw the land; and on the ground of non-occupancy decided the grant invalid.

5. In the case of Frémont *vs.* The United States, (17 Howard, 542,) decided at December term, 1854, the Supreme Court of the United States held that, in the case of Mexican land grants, omission to take possession of the land did not of itself forfeit the right or grant. Had this determination preceded the action of the board of land commissioners, the grant to Gomez would certainly have been pronounced valid, as the board decided against the grant on the ground that the grantee had not entered upon and possessed himself of the land granted.

6. The decision of the board of land commissioners made an appeal necessary, which was accordingly taken by Gomez, and June 5, 1857, the district court for the southern district of California confirmed his claim, and a decree to that effect was pronounced. But through what is claimed to have been a clerical mistake, and which the party asserts was unobserved for some months, the decree was for three leagues of land instead of four, as claimed, and as proved by the deposition of José Abrigo, used before the board of land commissioners, and in the court, to have been comprised in the grant, and was unsigned by the judge.

7. Thus, as Gomez, his counsel, and all interested might well have supposed, the question of title was settled, subject of course to the right of appeal. The records of the district court presenting Gomez as owner of the rancho in accordance with the finding of the board of land commissioners, the decree of the said district court, and the decision of the highest court in the Frémont case, Mr. McGarrahan, December 22, 1857, bought the property from Gomez in good faith, and for a valuable consideration.

8. The alleged error in the quantity of land stated in the decree of June 5, 1857, being discovered, an application was made to the court to correct it; whereupon, February 8, 1858, an amended decree was entered *nunc pro tunc*, (that is as of June 5, 1857,) covering the four leagues, and duly signed.

9. About the time Mr. McGarrahan purchased from Gomez, some persons having prospected the land, discovered mineral deposits, (a fact unknown to Mr. McGarrahan when he purchased,) and finding it had been sold by Gomez, they, as "squatters," took possession of and held it, as they still hold it, either in person or by assignees, cognizant of the facts, and without title.

10. March 15, 1858, the United States appealed from the decree of the district court, as it seems was their practice to do in all cases adjudicated against them, and on July 8, 1858, thirteen months after the final decree of confirmation, a motion was made by special counsel of the United States in the case, as it seems, without notice to the claimant to have the decree opened.

11. Mr. McGarrahan having been advised that the appeal to the Supreme Court had been taken by the Government, without examination as to its merits, in accordance with the uniform practice, made application through counsel to Hon. Jeremiah S.

Black, the then Attorney General, (a certified transcript of the case being presented to him,) to have him examine the case and determine whether he would persist in the appeal.

12. After full argument before the Attorney General, that officer directed that the appeal should be docketed and dismissed; and on January 31, 1859, it was so entered upon the books of his office, and upon the records of the Supreme Court. Whereupon, in March, 1859, the Supreme Court issued its mandate, which ordered and decreed the docketing and dismissal of the appeal entered in the Supreme Court, and commanded that "such proceedings be had in said case as, according to right and justice and the laws of the United States, ought to be had."

13. The said mandate was filed in the district court, May 4, 1859, whereupon the court ordered, adjudged, and decreed that the said mandate should be carried into effect, and that the said Gomez proceed under the decree of the court as under a final decree.

The effect of this was to perfect the title to said rancho in Mr. McGarrahan, as the grantee of Mr. Gomez.

At this stage of the case the most vigilant lawyer consulted by client, and required to examine records, could have given no other opinion upon the state of the records than that a fee-simple interest in the rancho was vested in Mr. McGarrahan.

From this time the parties occupying the property, without title or rightful claim, resorted to divers expedients to defeat McGarrahan's title; accordingly the "squatters'" interest, so called, which vested in the New Idria Mining Company, appealed to controlling officers of the Government. This is shown by the following facts:

1. A consultation between Mr. E. L. Goold, counsel for the "squatters" upon the property alluded to, with the Attorney General, and immediately thereafter that officer making a motion in the Supreme Court to recall the mandate before spoken of, on the ground of fraud and want of jurisdiction.

2. The alleged fraud was declared to consist in the fact that a conveyance of an undivided half-interest in the property had been made by Gomez to Pacificus Ord, then representing the United States as district attorney, and that he had consented to the propriety of the original decree of June 5, 1857.

3. It is shown that Mr. Ord, after his appointment to the office he held, not only revealed to the Government the fact that he was interested in the claim, but requested the Government to employ other counsel to attend to its interests.

4. This the Government did not do; the consequence of which was, that Mr. Ord, at the time of the original decree, having no evidence militating against the validity of the grant, acquiesced in its confirmation; and, so far as this committee can discover, the representation then made by Mr. Ord was in accordance with facts.

5. At this point in the proceedings, it appeared that some influence, unknown to the committee, had caused the file-marks and indorsements on the final order of the district court, made in obedience to the mandate of the Supreme Court, to be erased from the record, as well as the filing of the mandate itself. This seems to have been done on the 18th of January, 1860, more than eight months after the order had been filed. It also appears that certain entries in the books of the Attorney General's Office respecting the original appeal in this case, and the action of the Government in other appeals, embraced in the same order, were not known to the court or to McGarrahan's counsel in time for them to avail themselves of the benefits thereof, on the hearing of the case in the Supreme Court, on motion by the Attorney General to revoke the mandate. It will be remembered that it was upon the conclusive evidence of his order that the Supreme Court had directed the proper entry to be made upon their record, and that their mandate was issued.

6. This failure to disclose the facts to the court, by the Government, undoubtedly had much to do in securing the order of the Supreme Court revoking their mandate of 1859, and which order was strangely withheld until June, 1862, when it was filed by the present claimant for the purpose of again lodging jurisdiction of the case in the court below.

7. But in the mean time, (March 21, 1861,) the district court annulled its original decree. This extraordinary action on the part of the court seems to have been taken without notice, either to the claimant or his known counsel, and in the absence of both.

8. As soon as this condition of things was ascertained, an application was made to the court to restore the decree, and upon full hearing, the order, as requested, was made on the 4th of August, 1862.

9. Thus matters rested until the 25th August, 1862, when the then district attorney, contrary to express stipulation entered into between himself and the counsel for the claimant, in their absence, and without notice, obtained an order of appeal to the Supreme Court.

10. The impropriety of this proceeding is made apparent for the reason that, in order to give the Supreme Court jurisdiction, a citation should have been first issued, signed by the judges, served on the claimant, and formal return made, with proof of service.

11. The law is very clear upon this point; the acts of 1789 and 1803, which regulate

appeals, (the appeal not having been taken in open court at the June term in 1857, when the original decree was pronounced, nor at the December term in 1857, when the decree was entered *nunc pro tunc*, or, in other words, within five years, as directed by the statutes,) demand a notice to the opposite party, and the proceeding was therefore clearly wrong. The court, upon a full hearing, reached this determination, and accordingly decided, December 4, 1862, that the appeal allowed August 25, 1862, be vacated and set aside, and that an appeal on behalf of the United States to the Supreme Court be denied.

Here, for the second time, the record evidenced a perfect title in the claimant.

It having been twice judicially determined by the action of the courts that Mr. McGarrahan was the legal owner of the Rancho Panoche Grande, the aggressors upon his rights resorted to a new line of action.

1. As seen, after nine years of litigation, Mr. McGarrahan, the present claimant, succeeded in acquiring two distinct confirmations of his title. It was then, in accordance with the act of Congress of June, 1862, he applied to the United States surveyor general of California for a survey of the said tract of land, and which officer caused the survey to be made, and approved September 11, 1862. This survey was transmitted immediately thereafter to the General Land Office, and a patent for the property was demanded.

2. Here, again, he was confronted by the New Idria Mining Company, before referred to. The Secretary of the Interior at that time, (Hon. Caleb B. Smith,) after argument in the case, ordered the patent to issue.

Thus again, for the third time, the title to the Panoche Grande was found to be in Mr. McGarrahan. Some unknown cause delayed the execution of this order, and the patent was not issued. This neglect, or refusal, was persisted in throughout the remainder of Mr. Secretary Smith's term. The matter was then brought to the notice of Mr. Usher, the new Secretary, before whom it was again argued, and by whom a patent was directed to be issued. Neither the order of Mr. Smith nor Mr. Usher was obeyed, for some reason not yet divulged or ascertained.

For the fourth time, the title of Gomez and his grantee was decided to be good and available in law. A request was then made by the claimant of President Lincoln that he would make an examination of the case, and determine it upon its merits. This he consented to do. Printed briefs were laid before him; and, upon full consideration of all the facts and circumstances, he directed the Secretary of the Interior to cause a patent to issue to Mr. McGarrahan. And thus, for the fifth time, Mr. McGarrahan was declared to be entitled to the property or rancho, and that neither the United States nor any other person had lawful claim to the same.

In accordance with this order of the President of the United States to the Secretary of the Interior, a patent was actually made out; but, for reasons not fully explained, never delivered to him for signature.

To recapitulate:

1. The proof of a legal grant from the Mexican Government to Gomez and the transfer of title to McGarrahan are clearly and indisputably shown.

2. The district court of the United States for the southern district of California confirmed the grant.

3. The Attorney General of the United States declared the title to the lands to be in Mr. McGarrahan, and caused an entry to that effect to be made on the books of his office and in the Supreme Court.

4. Hon. Caleb B. Smith, Secretary of the Interior, after examination and consideration of the case, ordered a patent to be issued to Mr. McGarrahan.

5. Mr. Usher, the successor in office of Mr. Smith, similarly decided.

6. Mr. Lincoln, after inquiry, decided the grant to be genuine, and that a patent should be issued to Mr. McGarrahan.

From the time when the district court pronounced its decree of confirmation, (June 5, 1857,) and the President's action on the case, (in the fall of 1863,) it will be observed, over six years had elapsed, and, in consequence of the lapse of time, an appeal could not be had according to law, unless something should appear to avoid the limitation.

In December, 1863, a paper, purporting to be a transcript of proceedings as they appeared on the records of the district court, was prepared in the Attorney General's Office in Washington, District of Columbia, forwarded to the district attorney in California, certified by him out of his district, without comparison with the record, and merely from memory, and from which transcript were omitted material parts of the record, and returned to Washington.

Upon the transcript thus made up, the case was again brought before the Supreme Court, which being discovered by the claimant, a motion was made to strike off the appeal, which was refused, although it, as it seems to the committee, was out of time, and the transcript had been made up without reference to the actual records of the district court.

Notwithstanding the Supreme Court refused to strike off the appeal taken in the

manner indicated, a new transcript was obtained, 1865, from the clerk of the district court, and filed at December term, 1865, eight years and a half after the decree of the district court confirming the title was first pronounced, and more than three years after the period had elapsed within which the law allowed an appeal to be taken in the case, unless some exception takes it out of the limitation. Upon this appeal the Supreme Court, in March, 1866, decided the case against the claimant, and thus matters now stand.

The committee have bestowed a great deal of time and labor upon this case, in order to arrive at its real facts and merits. The claimant and the parties resisting his claim have been heard patiently and at great length.

In presenting the conclusion at which the committee have arrived, they do not wish to be understood as undertaking to review and reverse the action of the Supreme Court relative to the case. Under and by virtue of the right of petition, the claimant has presented his case to Congress, and the House of Representatives directed this committee to inquire into the grounds of his complaint. This has been done. Many facts have been presented to the committee which were not placed before the court. Additional evidence has been submitted, and circumstances disclosed which have induced your committee to conclude that the relief prayed for by Mr. McGarrahan ought to be extended to him; and this may very readily be done. The title to the land claimed, and which he asks that he may be allowed to purchase, is now vested in the Government of the United States, and it is merely a question whether he shall be permitted to secure that which, in the judgment of your committee, he acquired title to by virtue of the Mexican grant aforesaid, or it shall fall into the hands of a corporation, known as the New Idria Mining Company, which has been resisting his claim for years, and paying the expenses of the efforts of said company out of the proceeds of the mines, the title to which rests in the United States.

It is clear that McGarrahan purchased the property in good faith, and for a valuable consideration, when it was regarded as of but little value. His interests have been attacked and his title resisted, nominally, by the United States, but really by the New Idria Mining Company. The name of the United States, their officers and money, have been used to resist his claim, and all to the end that this property, valuable as it now undoubtedly is, may pass into the hands of parties who are wholly unknown to the record of the proceedings had in the courts of the United States respecting the title to the land in question, through all its years of transit from the board of land commissioners to and through the Supreme Court of the United States.

The company aforesaid placed before the committee a memorial, in which the case is stated as follows:

"The real parties who contested the grant were your memorialists, for against them only were the efforts of the owners of the 'Panoche Grande rancho' directed. For the New Idria mines, and for the fruits of the labor of those who have developed them, the owners of the 'Panoche Grande' are now seeking congressional interference in their behalf. It may well be doubted whether the 'Panoche Grande' would ever have been heard of in the district court of the United States or in Congress but for the hope of robbing your memorialists of the fruits of their years of labor and vast expenditures of money."

This extract shows that the United States have no interest as between these parties beyond that of preserving its faith as pledged in the treaty made between this Government and that of Mexico. And as to the allegation of robbery, &c., made by said company, it may be remarked that one of its stockholders of large interest testified before the committee that after paying all of the expenses of said company, including every outlay, a balance would be left in its treasury on account stated.

The precedents are numerous where the Congress has afforded redress in cases of an analogous character. The following are referred to:

1. The Soscol act, 12 U. S. Stats., p. 808.
2. The Bolsa de Jomales act, 13 U. S. Stats., p. 136.
3. Ex-Mission San José act, 13 U. S. Stats., p. 534.
4. Laguna de Santos Calle act, 13 U. S. Stats., p. 372.
5. Baron de Bastrop act, 9 U. S. Stats., p. 597.

In addition to which we have the act of June 21, 1860, and the act of March 1, 1861.

In view of all the facts developed in the case, and believing that justice and equity demand that the relief prayed for by the claimant be extended to him, the committee recommend the passage of the bill herewith reported.

Mr. JAMES F. WILSON, on leave, introduced the following bill:

A BILL for the relief of William McGarrahan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the tract of land known as the Panoche Grande rancho, in

the State of California, granted by Governor Manuel Micheltorena to Vicente P. Gomez in the year 1844, and by said Gomez conveyed to William McGarrahan on the 22d day of December, 1857, surveyed by the United States surveyor general for the State of California, and approved by him on the 11th day of September, in the year 1862, and which said survey is now on file in the General Land Office, be, and the same is in all respects, hereby fully confirmed to said William McGarrahan, upon this condition, however, that the said McGarrahan shall, within twelve months after the passage of this act, pay into the Treasury of the United States the sum of $1 25 per acre for the lands embraced within the said survey.

SEC. 2. *And be it further enacted*, That upon the payment of the said sum of money to the Treasurer of the United States by said McGarrahan, the said Treasurer shall give a certificate therefor, and upon the presentation thereof to the Commissioner of the General Land Office, a patent shall be issued to said William McGarrahan for said lands.

ERRATA.

Page 31, line 8, letter of W. T. Otto, of July 6, 1870, after the word "any," insert the word "such."

Page 31, line 4, letter of Jos. S. Wilson, of July 7, 1870, for "Colofornia," read "California."

Page 31, line 5, letter of Jos. S. Wilson, of July 7, 1870, for "1853," read "1863."

TESTIMONY

TAKEN BEFORE

THE JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES

IN

The matter of the memorial of William McGarrahan.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., July 6, 1870.

SIR: I have the honor to acknowledge the receipt of your letter of this date, requesting that the Judiciary Committee of the House of Representatives may be furnished with volume four of California Mexican confirmed grants, containing the records of March, 1863, and also with any unexecuted patent to William McGarrahan, and to inform you that it has been referred to the Commissioner of the General Land Office, who has been directed to send an officer of his Bureau with the record requested, for the inspection of the committee, and also to send any draught of patent, such as you refer to, if any exists.

I am, sir, very respectfully, your obedient servant,

W. T. OTTO,
Acting Secretary.

Hon. JOHN A. BINGHAM,
Chairman Judiciary Committee, House of Representatives.

DEPARTMENT OF THE INTERIOR,
General Land Office, July 7, 1870.

SIR: The Secretary of the Interior has referred to this office the communication to him, dated the 6th instant, from the honorable chairman of the Judiciary Committee, House of Representatives, desiring that there be "sent to the committee on Friday next, at 9½ o'clock a. m., from the Land Office, records of California Mexican confirmed grants, volume four, containing the records of March, 1853, for the inspection of the committee, and also desiring that there be sent to the committee, at the same time, any unexecuted patent to William McGarrahan."

Pursuant to the Secretary's direction, that the record be sent by an officer of the bureau, and also the draught of patent, I have the honor to transmit herewith by the hands of Mr. Calver, of the General Land Office, the aforesaid record and draught of patent, respectfully requesting of the honorable committee the return of the same by the bearer when no longer required.

With great respect, your obedient servant,

JOS. S. WILSON,
Commissioner.

Hon. JOHN A. BINGHAM,
Chairman Judiciary Committee, House of Representatives.

WASHINGTON, D. C., *July* 8, 1870.

THEODORE F. STOKES sworn and examined.

By the CHAIRMAN:

Question. Please state your full name.—Answer. Theodore F. Stokes.

Q. Are you employed in the General Land Office of the United States?—A. Yes, sir.

Q. How long have you been there?—A. Since 1861.

Q. Will you look at the record made on page 321, volume 4, of the General Land Office, and state to the committee who made that record?—A. I should think I wrote that.

Q. Have you any doubt about it?—A. No, sir; not at all.

Q. State when you did it.—A. I could not do that; I would have to take this date. It was on or about the time of the date here given.

Q. State what you made that record from.—A. It was made from the field-notes of the report of the surveyor general.

Q. What did you make the last entry on the page, 321, the signature of the President and Secretary, from?—A. It was a printed form that is made out, and the names were not on the printed form.

Q. What did you write the names from?—A. It is the usual course of doing such things in the office.

Q. Did you find them on any original grant?—A. No, sir.

Q. Who ordered you to make up the record?—A. The chief clerk, at that time, Mr. Lowry.

Q. Did he order you to do it?—A. It was sent down in the usual way.

Q. Is he in the office now?—A. No, sir.

Q. What is he engaged in?—A. I believe he is in the Treasury Department now.

By Mr. BUTLER:

Q. Where did you get the dates?—A. When they send down the papers they send word to the recorder, telling him what dates to put in.

Q. They say, date the patent at such a date?—A. Yes, sir.

Q. Do you date back or forward?—A. Never back.

By Mr. DAVIS:

Q. Did you make the patent before it was executed?—A. No, sir. We generally make out the patent and then have it copied.

Q. Have you any recollection so as to be able to say whether there was or not a patent from which this record was made?—A. No, sir; I have not.

Q. Is this in your handwriting?—A. No, sir. That is in Mr. Stoek's handwriting. Sometimes they wrote the patent first.

Q. What was the general practice about that time?—A. It was both ways.

Q. Was it more frequent to make the patent first, and then the record?—A. I could not say.

Q. When you made the record first did you make it complete, as if it were a completed patent?—A. Yes, sir. We always filled in the names of the President and Secretary.

Q. Although they had not been annexed to any patent?—A. Yes, sir.

By Mr. BUTLER:

Q. Why was that left blank? (pointing to a particular record.)—A. I suppose Mr. Granger was away, and they did not know who would sign it.

By Mr. ELDRIDGE:

Q. Do you put on the seal before the signature is put on?—A. I never saw it done. That is the last thing that is done.

By Mr. PETERS:

Q. Who fills it in?—A. The person who records it puts it all in.

By Mr. BUTLER:

Q. Is the place of the seal put in before it is executed?—A. We generally make a scroll for the seal before.

By the CHAIRMAN:

Q. Do you understand that the chief clerk ever ordered a patent to be made before it was submitted to the Commissioner?—A. The Commissioner does not order the patent. The head of the division sends word down to make the record.

Q. Do you know of a case that a patent was issued that had not been ordered to be issued by the head of the Department?—A. I have not known any.

WASHINGTON, D. C., *July* 8, 1870.

THOMAS CALVER sworn and examined.

By the CHAIRMAN:

Question. Give your full name if you please.—Answer. Thomas Calver.

Q. State whether you are employed in the General Land Office of the United States.—A. Yes, sir.

Q. How long have you been there?—A. I have been in the Department four years last past; the first six or seven months I was detailed in the office of the Secretary of the Interior.

Q. You were not in the Land Office in 1863?—A. No, sir.

Q. Have you any knowledge who made the record on page 321 of volume 4 of Land Office?—A. I could not swear to it. I have understood that a gentleman by the name of Stokes made the record, and it looks to me like his handwriting. He is in the pre-emption division of the General Land Office now.

By Mr. LOUGHRIDGE:

Q. What is the custom in regard to drawing up the patents?
[Mr. Eldridge objected to this question, and it was withdrawn.]

By the CHAIRMAN:

Q. State whether you have been a recorder of patents or grants of land in the Land Office?—A. I have. When I first went into the office I was a writer and recorder of patents. Subsequently, for a time, I was detailed in the Secretary's office; and then I went back to the General Land Office.

Q. You have been a recorder since that time?—A. Yes, sir; I have recorded them since that time.

By Mr. LOUGHRIDGE:

Q. What was the custom when you first went into the office, and what has it been since, in relation to recording these patents before they were actually executed?
[Mr. Eldridge objected to this question, because the patent purports to have been executed in 1863, before the witness was in the office.]
[The objection was overruled by the committee.]
A. In answer to the question, I would state that in 1866, for the sake of convenience, so that if any changes were to be made, or any mistakes occurred, it was customary to write the record first, giving a certain date, because the patent could not have any erasures or be scratched, but the record might be changed. The date was usually placed something ahead, when writing up a lot of patents, in order to secure the date properly. It was a matter of choice among the patent writers whether they would write the records or the patents first. I do not know about that to-day. When it is ascertained that mistakes have been made, the record is sometimes canceled. It is now the custom in our division—that is the division of private land claims—in issuing these patents, to secure the signature of the President and Secretary to the record before the patent is issued.

By Mr. DAVIS:

Q. Has it ever been the custom to record the instrument as a completely executed one before it was in fact executed?—A. Yes, sir.
Q. And the name of the Secretary?—A. Yes, sir.
Q. How could you ever presume by what Secretary it would be executed?—A. In some cases the records have been canceled, as I know to have been the case when Mr. Edward D. Neil was removed and another person appointed. These mistakes have been make, and the records have been canceled.
Q. Is there any such case in this book, to your knowledge?—A. I do not think there is any in that book; I do not recollect any.

By the CHAIRMAN:

Q. Do you know of any instance of any record being made of a patent or grant, in the book of records of the General Land Office, without an order first to make such a record or patent?—A. I am not aware of any patent recorded within my personal knowledge as having been complete, without an order; that is, without the matter having been submitted to the Commissioner. It is the business of the chief clerk of the private land claims to prepare a patent, and to have a form of the patent recorded. Subsequently it is his business to place the matter before the Commissioner with the papers, and then the Commissioner decides whether the patent shall issue or not. It is sometimes recorded before the Commissioner examines it.

By Mr. DAVIS:

Q. When the recording proceeds, the recorder would always have the instrument there, of course, to copy into the book?—A. Certainly.
Q. Do you make the instrument from the book?—A. In case the record is made first, the patent is copied from the record. It is the general custom, in the private land claims, to write the patent first, and write the record from the patent.
Q. When the book is completed first you would not be very likely to leave out of the instrument the date which you had entered in the book?—A. Sometimes we might; when there was no certainty as to the time when it was signed.
Q. Would you make a complete record, dates and all, in the book, and then make a copy to be executed from that, leaving out the dates?—A. I think that would be an oversight to do so. I was speaking of the custom in the private land claims, in the records division.
Q. I am asking you what would be done. Do you make a complete record of the in-

strument; and then for the purpose of having it transcribed, do you leave out the dates?—A. I think if left out in that case it would be an oversight.

By Mr. COOK:

Q. Do you know in whose handwriting these words, "Not signed," are?—A. I have been informed that it is the handwriting of the chief clerk of the private land claims. His name is W. H. Lowry.

Q. Is he in the city now?—A. I have been so informed; I do not know.

By Mr. DAVIS:

Q. I observe that the concluding sentence is, "Acting Recorder of the General Land Office;" but in this other book the word "acting" is left off. Why is that?—A. The reason is, we have a recorder; and in his absence, the law provides that the principal clerk shall be the acting recorder.

Q. Why was the word "acting" left off when writing in the book?—A. The recorder may have been writing from the patent or the original papers. In comparing, there are three different persons holding the three different classes of papers—the record, the patent, and the original papers, and they are all examined.

Q. These are to be examined and compared?—A. Yes, sir; and then a note is made to indicate that they are correct.

Q. What is that note?—A. It is written in ink, over the top of the patent, E. X. D.

Q. When is that done? After the patent is completed, or before?—A. It is generally done before; always, in fact, before the patent is signed. It means that the substance of the patent agrees with the record and papers. At present it is our custom to write the name and date after it passes from our hands, for if there were a blunder in it, it would have to be written over, because the law allows no erasures. This cannot be done after the seal is affixed, therefore it must be examined before it is submitted to the President and Secretary.

Q. That note, then, simply means that the blank patent has been examined and found to be correct?—A. Yes, sir.

By Mr. ELDRIDGE:

Q. Do you know what the custom was in 1863?—A. No, sir.

Q. Did you know anything about it between 1863 and 1866?—A. No, sir; except from hearsay.

Q. What is the authority upon which a patent is made out?—A. It is the final confirmation of the thing by decree of the court.

Q. Where do you get your authority, as recorder, for recording it?—A. I would have the papers placed in my hands by the person in charge of the division. The transcript decrees of the court would be my authority.

Q. You get your authority from the head of the division?—A. Yes, sir.

Q. Where does he get his authority from, decrees of the court, or by order of the Secretary?—A. He may from the transcript of the court, and still have orders not to issue the patent.

Q. Does the chief clerk or head of the division act in making out patents on his own judgment, or does he have authority from the head of the Land Office?—A. He has authority.

Q. From whom?—A. The Commissioner. The principal clerk of the private land claims has charge. The Commissioner exercises a supervisory power. If the clerk has executed his duty to the best of his knowledge and belief, he places the papers in the hands of the Commissioner; nothing of the kind ever passes without the authority of the Commissioner.

Q. Are the records and patents all made out without authority of the Secretary of the Interior, or of the Commissioner of the General Land Office?—A. Yes, sir; without any authority in the particular case. But they are not signed by the President and Secretary until the Commissioner has revised them.

Q. I am inquiring where you get your authority?—A. If I were the principal clerk I should say I get my authority by appointment and confirmation.

Q. Who gets the decisions of the courts and original records upon which the patents are made out?—A. They are sent by the surveyor general to the Commissioner of the Land Office, and he sends them to the principal clerk of the private land claims, and they are filed in his office.

Q. And then he acts upon these?—A. Yes, sir.

By Mr. BUTLER:

Q. At what time is the seal affixed to the patent?—A. After the President and Secretary sign it.

Q. Never till then?—A. No, sir.

Q. Now, I observe that all the records—take the one on page 369 for example—have the indorsement, "J. W. Granger, recorder, General Land Office?"—A. Yes, sir.

Q. Is that a copy or a genuine signature?—A. He does not sign it. It is signed by the clerk who makes out the patent.

Q. Here, again, I find, (examining the book,) "Granger, recorder," and here, again, I find it in a different handwriting?—A. Yes, sir. It is written by a different clerk.

Q. Why should the clerk put "Granger?"—A. The clerk who writes the record puts it in. (After examining the record.) In that instance, in all probability the names were left blank and written subsequently.

Q. Here we find "Granger," (still examining the records,) in a similar place, in a different handwriting? There is an unsigned patent, but still it is "Granger?"—A. The President himself signed that.

Q. Here I find "Martin Buel, acting recorder." But what I observe, is this, in every completed patent the acting recorder or somebody certifies it?—A. Yes, sir.

Q. He is a different officer from the land grant secretary?—A. Yes, sir.

By Mr. KELLOGG:

Q. When you went into the Land Office, Mr. Edmunds was Commissioner?—A. Yes, sir.

Q. Do you know this person's handwriting? (Pointing to the book of records.)—A. Yes, sir.

Q. The seal, you say, is not applied until the patent is signed?—A. No, sir; it is not.

Q. The seal not being there, in this case, is an indication that it never was signed?—A. Yes, sir.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., July 19, 1870.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, requesting to be furnished with an authenticated copy of the Gomez grant for the rancho "Panoche Grande," and to inform you that it has been referred to the Commissioner of the General Land Office.

I am, sir, very respectfully, your obedient servant,

J. D. COX, *Secretary.*

Hon. JOHN A. BINGHAM,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., July 26, 1870.

SIR: In compliance with the request contained in your letter of the 14th instant, I have the honor to inclose herewith a certified copy of the records of the General Land Office relating to the California private land claim known as "Panoche Grande."

I am, sir, very respectfully, your obedient servant,

J. D. COX, *Secretary.*

Hon, JOHN A. BINGHAM,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
General Land Office, July 25, 1870.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed, on pages one to fourteen inclusive, is a true and literal exemplification of an *incomplete* record of an *unexecuted, unsigned* patent now on file in this office for an alleged private land claim in California, known as the rancho "*Panoche Grande*," said record being found on pages three hundred and twelve to three hundred and twenty-one, inclusive, in volume four of "California Land Claims," the said record being *incomplete* in this:

First. That it does not bear the name of either the recorder or acting recorder, the recorder's name or acting recorder's being by law and custom essential to the completion of the patent; and,

Second. The said patent is *unexecuted* and *unsigned* both by the *President* and *recorder*, as shown by the original of the said patent now on file in this office; and,

Third. That on the said record pencil lines are drawn across the *date*, the *name of the President* and *President's secretary*, and the words "*not signed*" are also written in pencil on said record.

In testimony whereof I have hereunto subscribed my name, and caused the seal this office to be affixed at the city of Washington on the day and year above written.

[SEAL.]

JOS. S. WILSON,
Commissioner of the General Land Office.

1 THE UNITED STATES OF AMERICA.

To all to whom these Presents shall come, Greeting:

Whereas, It appears from a duly authenticated transcript, filed in the General Land Office of the United States, that pursuant to the provisions of the Act of Congress approved the third day of March, one thousand eight hundred and fifty-one, entitled "An Act to ascertain and settle the Private Land Claims in the State of California," Vicente P. Gomez, as claimant, filed his petition on the ninth day of February, 1853, with the Commissioners to ascertain and settle the private land claims in the State of California, sitting as a Board in the city of San Francisco, in which petition he claimed the confirmation of his title to a tract of land called Panoche Grande, of the extent of four square leagues, situated in the County of San Joaquin, and State aforesaid; said claim being founded on a Mexican grant to the petitioner, made in the year 1844, by Manuel Micheltorena, then Governor of Upper California;

And whereas, the Board of Land Commissioners aforesaid, on the 6th day of March, 1855, rendered a decision rejecting said claim, which decree or decision was, on appeal, reversed by the District Court of the United States for the Southern District of California, by decree rendered as follows:

"Vicente P. Gomez, appellant, vs. The United States, appellee; case No. 393, 'Pano-
"che Grande.' Transcript No. 569. Decree. This cause came on to be heard on appeal
"from the decision of the United States Board of Land Commissioners to ascertain and
"settle the private land claims in the State of California, under an Act of Con-
2 "gress approved March 3, 1851, on a transcript of the decision and proceedings
"of said Board, and the papers and evidence upon which said decision was made,
"and the other evidence adduced by the appellant before this Court, and it appearing
"to the Court that said Transcript and notice of intention to appeal have been duly
"filed according to law, and counsel for the respective parties having been heard,
"It is ordered, adjudged, and decreed, that the decision of said Board of Land Com-
"missioners be, and the same is hereby, reversed; and that the claim of said appellant
"is good and valid; and the same is hereby confirmed to him as follows, to wit: the
"tract of land situate in the County of Fresno, State of California, known by the name
"of 'Panoche Grande,' bounded northerly by the lands of Don Julian Ursua, southerly
"by the hills, easterly by the valley of the Tulare, and westerly by the lands of Don
"Francisco Arias, containing four square leagues of land and no more, provided that
"quantity is contained within the boundaries aforesaid, and provided also that if a
"less quantity is contained within the boundaries aforesaid, that confirmation of such
"less quantity is hereby made to said claimant, and for a more particular description
"of which said land reference is hereby made to the map contained in the Transcript
"in this case.

"And it also appearing to this Court that heretofore, to wit: on the 5th day of June,
"A. D. 1857, at a regular term of this Court holden in the town of Monterey, State of
"California, the claim of the appellant in this case had been confirmed by this Court,
"but that it had been omitted by this Court to sign the decree of confirmation
3 "at the time the same was made: It is therefore further ordered by this Court
"that the same be signed now as for then.

'Given under my hand in open Court this 5th day of February, A. D. 1858.

"ISAAC S. K. OGIER,
"*U. S. Dist. Judge for the S. Dist. of Cala.*"

And whereas, it further appears from a duly certified extract on file in the General Land Office, from the minutes of the Supreme Court of the United States, that this cause being brought by appeal before the said Court at the December term, 1858, the following proceedings were had therein: "Now on this day this cause coming on to be
"heard, the parties appearing by their respective attorneys, the appellant by Sloan &
"Hartman, Esqs., and the appellees by P. Ord, U. S. Dist. Atty., and after argument of
"counsel aforesaid, the same is submitted to Court for final adjudication. Whereupon
"the Court being fully advised in the premises, delivered its opinion confirming the
"claim of the appellant to the extent called for in the Transcript and papers, three
"leagues or sitios de gañada major, and a decree was ordered to be entered up in con-
"formity with said opinion;" and thereafter, to-wit, at the December term, 1859, of the Supreme Court of the United States the following order was made in this case: "The
"United States, appts, vs. Vicente P. Gomez. Appeal from the District Court of the
"United States for the Southern District of California."

"On consideration of the motion made in this cause on a prior day of the present
"term, to-wit: on Friday the 27th day of January, A. D. 1860, by Mr. Attorney Gen-
"eral Black, to rescind the order and decree of this Court of the 31st day of January,
"1859, docketing and dismissing this appeal, and to revoke and cancel the man-
4 "date issued by this Court to the District Court of the United States for the
"Southern District of California, and of the argument of counsel thereupon had

"as well in support of as against the said motion: It is now here ordered by this "Court that the aforesaid decree of this Court docketing and dismissing this appeal be "and the same is hereby rescinded and annulled. and that the mandate issued by this "Court to the District Court of the United States for the Southern District of Califor- "nia in this case be and the same is hereby revoked and canceled; and it is further "ordered by this Court that the Clerk of this Court do forthwith send a certified copy "of this order to the aforesaid District Court of the United States for the Southern "District of California."

And whereas, it further appears from a duly certified transcript on file in the General Land Office, that an order having been made in the District Court of the United States for the Southern District of California, granting a new trial in this case, the said Court on the 4th day of August, 1862, on a motion to vacate and set aside said order, made the following order: "Vicente P. Gomez, appellant, vs. The United States, ap- "pellee, D. C. No. 393, L. C. No. 569. 'Panoche Grande.' On this day the Court delivers "its opinion in this case granting the motion heretofore made by the appellant herein "praying the Court to vacate and set aside the order of Hon. Isaac S. K. Ogier, late "Judge, granting a new trial in this cause. And it is hereby ordered that the previous "order of this Court made and entered on the 21st day of March, 1861, setting aside "all proceedings had in this cause, and placing the same on the Calendar for trial *de* "*novo*, be and the same is hereby vacated and set aside."

And whereas, it further appears from a duly certified transcript on file in the 5
General Land Office of the United States, that an order having been made on the 25th day of August, 1862, in the District Court aforesaid, allowing appeal in this case to the Supreme Court of the United States, the said District Court, at the December term, 1862, made the following order: "Vicente P. Gomez vs. The United States, "No. 393, Panoche Grande. In this case the court delivered an opinion on the motion "submitted the day before yesterday, and ordered that the appeal taken on the twenty- "fifth day of August, A. D. 1862, by the United States to the Supreme Court of the "United States from the final decree of confirmation herein be vacated and set aside, "and it is further ordered, that the order of this Court made on the said 25th day of "August, A. D. 1862, allowing said appeal, be and the same is vacated and set aside, "and the motion of the United States District Attorney for leave to take an appeal on "behalf of the United States to the Supreme Court of the United States from the said "final decree be and the same is denied."

And whereas, there has been presented to the Commissioner of the General Land Office a plat, with a certificate of the survey of the said claim, authenticated by the signature of the Surveyor General of the public lands in California, said survey having been made pursuant to the act of Congress approved June 2, 1862, entitled "An act "for the survey of grants or claims of land," said plat and certificate being in the words and figures following, to wit:

"UNITED STATES SURVEYOR GENERAL'S OFFICE, 6
"*San Francisco, California.*

"Under and by virtue of the provisions of the act of Congress of the 2d of June, "1862, entitled 'An act for the survey of grants or claims of land,' and in consequence "of a certificate of the United States District Court for the Southern District of Cali- "fornia, a copy of which is hereto annexed, by which it appears that a decision of the "said District Court has been had, recognizing and confirming the title claim of "Vicente P. Gomez to the tract of land designated 'Panoche Grande,' the said tract "has been surveyed in conformity with said decision, and I hereby certify the annexed "map to be a true and accurate plat of said tract of land as appears by the field-notes "of the survey thereof made by E. H. Dyer, Deputy Surveyor, in the month of July, "1862, under the direction of this office, which, having been examined and approved, "are now on file therein.

"And I hereby certify that the said tract of land is bounded and described as fol- "lows, to wit:

"Beginning at post in earth mound corner to sections one, two, eleven, and twelve, "township seventeen south, range eleven east of Mount Diablo meridian, from which "post a point on the highest ridge of the Lomas Muert as (a high range of barren and "broken mountains, the eastern slope of which forms the western edge of Tulare "Valley) bears north nine degrees west, distant about two miles.

"Thence according to the true meridian, the variation of the magnetic needle being "fifteen degrees thirty minutes east, over rolling land to the north of a small "valley called Vallecito, north forty chains to post in earth mound on quarter 7
"section corner between sections one and two. Station.

"Thence west eighty chains to quarter section corner on line between sections two "and three. Station.

"Thence north forty chains to post in earth mound, corner to sections two and three "on fourth standard line south. Station.

"Thence west, at forty chains quarter section post in earth mound eighty chains to

"post in earth mound corner to sections three and four on fourth standard line south.
"Station.

"Thence through township sixteen south, range eleven east, north forty chains to
"station.

"Thence through middle of sections thirty-three and thirty-two, west one hundred
"chains to station.

"Thence south, at forty chains intersects fourth standard line south twenty chains
"west of post corner to sections four and five; thence with a variation of fifteen
"degrees thirty-five minutes east through township seventeen south, range eleven east
"parallel to its eastern boundary; at sixty chains enters Vallecito Valley, course north-
"west and south of east, one hundred chains to station.

"Thence east twenty chains to station on line between sections four and five, thence
"south, at thirty chains leaves small valley, thence over broken hills near southern
"edge of said valley, sixty chains to quarter section corner between sections eight and
"nine. Station.

"Thence east, eighty chains to quarter section corner between sections nine and ten.
"Station.

"Thence south, forty chains to corner to sections nine, ten, fifteen and sixteen.
"Station.

8 "Thence east, one hundred and twenty chains to quarter section corner between
"sections eleven and fourteen. Station.

"Thence through section fourteen, south sixty chains to station.

"Thence east twenty chains to station.

"Thence south, twenty chains to station on line between sections fourteen and
"twenty-three.

"Thence on section line east, sixty chains to quarter section corner on line between
"sections thirteen and twenty-four. Station.

"Thence through middle of sections twenty-four, twenty-five, and thirty-six, over
"high and rough mountains, south two hundred chains to center of section thirty-six.
"Station.

"Thence east, at forty chains quarter section post in earth mound on line between
"ranges eleven and twelve east; thence through township seventeen south, range
"twelve east, eighty-two chains and fifteen links to center of section thirty-one.
"Station.

"Thence south, at forty chains quarter section post in earth mound on line between
"townships seventeen and eighteen south, sections thirty-one and six, on top of a ridge
"course northwest and southeast, thence through township eighteen south, range
"twelve east, two hundred and eighty chains to quarter section corner between sec-
"tions eighteen and nineteen. Station.

"Thence on section line, west twenty chains to station.

"Thence through section nineteen, south sixty chains to station.

"Thence east, twenty chains to station.

"Thence south, twenty chains to quarter section corner between sections nineteen
"and thirty. Station.

"Thence on section line east, sixty chains to station.

9 "Thence through section twenty, north sixty chains to station.

"Thence east, twenty chains to station.

"Thence north twenty chains to quarter section corner between sections seventeen
'and twenty. Station.

"Thence on section line east twenty chains to station.

"Thence through section seventeen, north forty chains to station.

"Thence east, twenty chains to quarter section corner between sections sixteen and
"seventeen. Station.

"Thence on section line, north eighty chains to quarter section corner between
"sections eight and nine. Station.

"Thence through section nine east forty chains to center of section nine, from which
"the Panoche Grande Peak bears south fifty-six degrees east, distant about seventy
"chains. Station.

"Thence north at forty chains quarter section post in rock mound on line between
"sections four and nine, from which a pine tree bears north fifty-two degrees east,
"distant twenty-four links, another pine tree bears south fifteen degrees west, distant
"nineteen links, and the San Carlos Peak in the northeast quarter of section four bears
"north twenty-two degrees east; thence through section four, at fifty-four chains and
"fifty links across Arroyo Panoche Grande, course northwest sixty chains to station.

"Thence east twenty chains to station.

"Thence north twenty chains to station.

"Thence east, twenty chains to quarter section post in earth mound on line between
"sections three and four. Station.

10 "Thence on section line with a variation of fifteen degrees fourteen minutes
"east, north; at forty chains and forty links intersects line between townships

"seventeen and eighteen south, range twelve east, at post in earth mound corner to "sections three, four, thirty-three and thirty-four; thence through township seventeen "south, range twelve east, over high and broken mountains with a variation of fifteen "degrees thirty-eight minutes east, eighty chains and forty links to quarter section "post in earth mound between sections thirty-three and thirty-four. Station.

"Thence through section thirty-three, with a variation of fifteen degrees twenty- "seven minutes east, west forty chains to center of section thirty-three, from which a "marked cedar tree, eight inches diameter, bears west, distant forty chains. Station.

"Thence through middle of sections, with a variation of fifteen degrees thirty-eight "minutes east, north at forty chains post in earth mound at quarter section corner "between sections twenty-eight and thirty-three one hundred and twenty chains to "post in earth mound at quarter section corner between sections twenty-one and "twenty-eight, two hundred chains to a sandstone twelve inches long, ten inches wide "and eight inches thick, in a rock mound in deep rocky gulch, from which a steep "rock cliff bears north forty-five degrees east; said sandstone is set for quarter section "corner between sections sixteen and twenty-one; thence over alkali hills two hun- "dred and eighty chains to quarter section post in a mound of alkali soil between ', sections nine and sixteen. Station.

"Thence with a variation of fifteen degrees fifty-nine minutes east, west forty 11 "chains to post in mound of alkali soil, corner to sections eight, nine, sixteen, and "seventeen. Station.

"Thence on section line with a variation of fifteen degrees thirty-eight minutes east, "north forty chains to quarter section post in mound of alkali earth. Station.

"Thence through section eight, with a variation of fifteen degrees fifty minutes east, "west forty chains to center of section eight. Station.

"Thence with a variation of fifteen degrees thirty-eight minutes east, north forty "chains to a sandstone rock twelve inches long, ten inches wide and eight inches thick "in mound of alkali earth, quarter section corner on line between sections five and "eight. Station.

"Thence on section line with a variation of fifteen degrees fifty-four minutes east, "west at thirty chains thirty-eight links enters the narrow valley of the Arroyo Pan- "oche Grande, at thirty-nine chains eighty-eight links across Arroyo Panoche Grande "fifty links wide course north ten degrees east; thence over low hills, forty chains and "thirty-eight links to post in mound at corner to sections five, six, seven, and eight; "thence on section line with a variation of fifteen degrees thirty minutes east, eighty "chains and thirty-eight links to quarter section post in earth mound, one hundred and "twenty chains and thirty-eight links to post in earth mound at corner to sections one, "six, seven, and twelve on line between ranges eleven and twelve east; thence through "range eleven east, one hundred and sixty chains and thirty-eight links to quar- "ter section post in mound two hundred chains and thirty-eight links to point 12 "of beginning, containing seventeen thousand seven hundred and sixty-eight "and seventy-seven one-hundredths acres, and being designated in the plat of public "surveys as lot number thirty-seven, township sixteen south, range eleven east, lot "number thirty-seven, township seventeen south, range eleven east, lot number "thirty-seven, township seventeen south, range twelve east, and lot number thirty- "seven, township eighteen south, range eleven east, all of Mount Diablo meridian.

"In witness whereof I have hereunto signed my name officially, and caused [SEAL.] "the seal of my office to attached, at the city of San Francisco, this eleventh "day of September, one thousand eight hundred and sixty-two.

"E. F. BEALE,

"*U. S. Surveyor General, California.*"

And whereas, application having been made for the issue of a patent upon the 13 foregoing survey, the Secretary of the Interior, under date of 29th December, 1862, rendered his decision, in which, upon recital in substance of the proceedings had in the matter and review, it is held as follows: that "the decree of the district court for the southern district of California, confirming the grant, has become final;" that "the United States has no longer any interest in the controversy;" that "no claim of third parties has been interposed;" that "the suggestions of fraud in the grant, or in the manner of procuring its confirmation, are *res adjudicata*," and he is "unable to discover any reasons why a patent should not be issued in conformity with the decree of the court and the survey," and ordered the issue of "a patent for the land in accordance with the survey as reported by the surveyor general."

Now know ye, that the United States of America, in consideration of the premises, and pursuant to the provisions of the acts of Congress and decisions aforesaid, have given and granted, and by these presents do give and grant unto the said Vicente P. Gomez, and to his heirs, the tract of land embraced and described in the foregoing survey, with the stipulation that said survey under the aforesaid act of June 2d, 1862, shall "be taken as *prima facie* evidence only of the true location of the land granted," and with the further stipulation that, in virtue of the 15th section of the said act of

March 3d, 1851, the confirmation of this said claim and this patent "shall not affect the interest of third persons."

To have and to hold the said tract, with the appurtenances, unto the said
14 Vicente P. Gomez, and to his heirs and assigns, forever, with the stipulations aforesaid.

In testimony whereof, I, Abraham Lincoln, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, this ~~fourteenth~~ day of ~~March~~, in the year of our Lord one thousand eight hundred and ~~sixty-three~~, and of the independence of the United States the ~~eighty-seventh~~.

[SEAL.]

By the President: ~~ABRAHAM LINCOLN~~.

Not signed.

By: ~~W. O. STODDARD~~, *Secretary,*
~~*Acting Recorder of the General Land Office.*~~

NOTE.—The words in the margin, "*not signed*," and the erasures of the dates, and crossing of the signatures, are in pencil.

[NOTE.—The following paragraph is written in red ink across page 13 of the patent:]

[DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
July 25th, 1870.

This record, from pages 312 to 321, inclusive, was made in accordance with the custom at the time, in anticipation of the original being submitted to the officers whose duty it is, under the law, to sign land patents, but an order dated March 13th, 1863, having been received from the Acting Secretary of the Interior, to "suspend the execution and delivery of the patent under the decision of" the "Department of the 4th" of March, 1863, "until further advised in the case by the Secretary," the form of patent which had been prepared, and from which the aforesaid record was made, was not submitted for signature, and has never been dated, signed, nor delivered.

JOS. S. WILSON, *Commissioner.*

J. N. GRANGER, *Recorder*]

WASHINGTON, DISTRICT OF COLUMBIA,
January 10, 1871.

W. O. STODDARD sworn and examined.

By the CHAIRMAN:

Question. State your place of residence.—Answer. New York.

Q. State, if at any time, you were secretary to the President of the United States, to sign land patents?—A. I was to Abraham Lincoln.

Q. State when you were appointed?—A. I was appointed April 1, 1861, by the President, and afterward, on the 16th of July, 1861, by and with the advice and consent of the Senate. These are the dates of my commissions.

Q. State how long you continued to hold the office of secretary?—A. Until September 24, 1864.

Q. State whether at any time you signed any patents under the direction of President Lincoln, by your own name as secretary, and in his name?—A. I did a number of them.

Q. You will look at the record now shown you, ending on page 321 of California Land Claims, coming to us from the General Land Office, and state to the committee what you know, if anything, about signing a patent corresponding with that there recorded, if you have not already examined it?—A. I take this to be the same record which I have already examined; I have now examined it also. I remember signing a patent for Panoche Grande in the spring of 1863.

Q. State whether, about the same time, you recollect having signed any other patents; and if so, how many by order and direction of the President?—A. I remember the Panoche Grande patent as one of three brought to me about the same time, so that I remember them together.

Q. What month in 1863?—A. March, as near as I can now recollect; and I could not be particular as to the exact date except by having referred to the records.

Q. Can you recollect and state to the committee what the other two grants were? that is, for what tracts and to whom made?—A. I can only recollect one of them without having refreshed my memory by referring to the record, which I have in respect to the other.

Q. State the one you recollect independent of having referred to the record?—A. The name of that is Honecut. The other I find, by referring to the record, is Canard de Parle.

Q. Can you recollect whether you signed all three on the same day?—A I cannot be

positive about that. It was on or about the same date, so that I remember them together in the same connection.

Q. Looking at that record and to the signatures, state to the committee whether that record shows the manner in which you appended the two names to the grant for the Panoche Grande rancho?—A. That was the customary way of appending the signatures.

Q. State whether that is the way in which you signed that grant?—A. I never vary; I was particular about that.

Q. Will you state to the committee whether you made any examination of this grant for the Panoche Grande rancho at the time you signed it; whether you looked into it?—A. I did.

Q. State any reasons which operated upon your mind, which induced you to take notice of it, any circumstances which enables you to remember more particularly about it?—A. I was very apt to examine the large patents, and this one was a large one. I called the attention of others to it at the time. I called Mr. John Hay's attention to it, and I have tried very hard to remember the names of the others who were in the room and whose attention was also called, but I do not remember them at this distance of time.

Q. Where was it you that signed these patents?—A. At the office at the Executive Mansion.

Q. After you had signed do you remember to whom you delivered them, or how you disposed of the patents after they were signed?—A. In almost all cases a messenger from the Land Office came up and took them back. There were a few instances in which I sent down patents by a messenger from the White House; which was done in this case I do not know.

By Mr. ELDRIDGE:

Q. Do you know that it was sent to the Land Office?—A. Only that I was always particular to see that my patents were sent back. I know that I performed my duties regularly. That is all the recollection I have about it.

By the CHAIRMAN:

Q. Look at the copy now shown you of an unexecuted patent brought here from the General Land Office, referring to the same record but without the signatures to it, and state whether you have seen the original draft, or unexecuted patent as it now is in the Land Office, at any time, and examined it before to-day?—A. I have.

Q. State how it compares as to its text, and the material upon which it is written, &c., with the original which you say you signed, as secretary for President Lincoln, for the same tract of land?—A. I have no recollection whatever as to the body of the patent. The material strikes me as about the same in size and general exterior appearance, with this exception: I had a pretty well-defined image in my mind of this lettering on the outside, and this which appears on the outside now does not appear to me to be familiar; it does not seem to be the same.

Q. That is the lettering of the envelope or cover?—A. Yes, sir. On the inside I find a map. There was a map to the patent I signed. I do not find the signature of the President nor the seal of the General Land Office.

Q. Was the seal of the General Land Office on the patent when you signed it.—A. It is my impression that it was; I do not want to be too positive about it; possibly I may be mistaken. It happend about five or six times that the seal was put on by accident, haste, or something of the kind before the patent was brought to me. It may not have been more than three or four times, but it is my impression that this was one of the times, but I cannot be positive.

Q. Look at the concluding page of this unexecuted patent, which you will observe is blank as to dates, and state whether the patent you signed had its dates filled up in writing like the rest of the patent, or not.—A. I think I should have noticed their absence.

Q. Have you any doubt about it?—A. Not at all. I should have noticed their absence. I do not remember ever signing a patent in any case that was not filled up, as to dates, in writing. I think I may safely say I never did.

Q. Have you examined that record? If not, examine it now and say whether the other two patents, to which you refer as having been executed about the same time, are recorded there or not.—A. I believe they are recorded, whether in this book or not I do not know. I asked about that when, and went to the Land Office to examine the record, and I found the date of one was on the 16th and the other on the 14th. That was my recollection, and I found that my memory was correct. I am not sure whether they were recorded in this book or not.

Q. During your term of office, and after the expiration of your term of office, did you have your attention called by anybody again to this patent for the Panoche Grande rancho?—A. I do not know. I would not say I did. I do not remember it.

Q. State, if you please, after examining carefully the body of that unexecuted patent

now before you, whether or not, in your judgment, it differs from the patent you signed, and to what extent and in what particulars does it differ, either as to words or appearances?—A. I should say that the date must have been on the patent I signed. I put the name of the President, Abraham Lincoln, upon it, which is not here, and I put my own name upon it, which is not here; and, according to my recollection, there was a seal, which is not here. That, however, I am not positive about. On all the patents which I signed I wrote, "Abraham Lincoln, by W. O. Stoddard, secretary."

Q. You will notice that on the record it reads, "Acting recorder" of the General Land Office, and on the original brought before us it reads, "Recorder of the General Land Office." Do you remember whether the paper, to which you put the name of the President and of yourself, had "Acting recorder of the General Land Office" upon it?—A. I do not remember anything about it.

Q. State whether you remember that it was the custom at the time, or not, to present patents to you with the name already countersigned, ———, "Recorder" or "Acting recorder" before you signed?—A. I do not recollect any such instance.

Q. State how the patent you signed, for the Panoche Grande Rancho, was bound up, if you recollect.—A. In the usual way for patents of that size and class.

Q. State whether it was bound in the same manner, and with the same kind of material, as the one now before you?—A. I think wider ribbon was used, with long ends to come under the seal. When I saw this patent I noticed that difference and asked the clerk in the Land Office, Mr. Stoek, about it. He said this was what they used sometimes, and sometimes they used a different one. I am inclined to think that at that time they were using a wider ribbon.

Q. Was anything said about using this cover at the Land Office when you were making your examination?—A. Yes; and I told the clerk it did not look familiar in any way. He said, no, I had never seen it before.

Q. Look at this unexecuted patent and say, when you have examined it, whether there are additional perforations in the paper?—A. I examined it in that respect when at the Land Office.

Q. How many did you find without ribbon in them when you examined it?—A. I did not count them; I just saw that there were perforations.

Q. Look at them and say how many appear to be there now?—A. There appear to be five on the outside and nine on the inside. The perforations appear to be through all the sheets except the cover.

Q. State whether upon an examination of the original unexecuted patent, now before you, from the General Land Office, there are perforations not filled with ribbon in all the leaves of the patent, except the cover, and how many are not filled with the ribbon.—A. There are five holes in the cover and nine in all the other sheets.

Q. Are there any holes in the cover which are not filled with ribbon?—A. No, sir.

Q. What number of perforations are there in the leaves of the patent that are not filled with ribbon?—A. Four.

Q. In the last leaf of this unexecuted patent, state how many perforations there are.—A. Nine.

Q. And the same number in each of the other leaves, except the cover, and five in each of the leaves of the cover?—A. Yes, sir.

Q. State, upon an inspection of this paper, whether the four perforations in the other leaves are so made as to indicate that they were to have been filled with ribbon in fastening together or binding the leaves?—A. They seem to have been put there for that purpose. That is all I can say.

Q. You may state now your opinion whether the wrapper and ribbon and indorsement of the wrapper of the unexecuted patent from the Land Office, before the committee, now shown you, are the same as were on the patent to which you signed the President's name, and your own as secretary.—A. My opinion is that they are not.

Q. You have already stated your recollection of the difference between the last leaf of the unexecuted patent, now before you, and that which you signed, the absence of date, seal, &c.—A. I have stated the difference.

By Mr. LOUGHRIDGE:

Q. How many perforations do you think there were in the leaves of the patent which you think you signed?—A. I could not tell. I should never have dreamed of counting them.

Q. Do you know whether there were not just the same number, and just the same number in the cover, as in this?—A. No, sir.

Q. What can you state of the cover or ribbon on the other two patents which you signed about the same time?—A. My impression is the same in regard to them, that there was a brighter ribbon.

Q. Do you mean that the color of the ribbon was brighter?—A. My impression of the patent I signed is, that it had a brighter and wider ribbon than this. That was the kind used at that time.

Q. Was the ribbon on the three you signed at that time lighter in color?—A. I cannot state except from general impression.

Q. Do you remember the color of the other two?—A. I have no recollection of any difference. The impression upon my mind is that a brighter and wider ribbon was used at that time.

Q. How many patents did you ever sign?—A. I do not know.

Q. Give some impression.—A. It would be impossible. In 1861 there were a good many; in 1862, very much less; in 1863, very few indeed, and almost none in 1864. It would be impossible to give any estimate of the number. Sometimes there would not be any for a good while, and then again there would be a rush of them.

Q. Can you remember the color of the ribbon on all those you signed?—A. There was no ribbon on any of those I signed, except the large ones, probably not more than a couple of dozen during the whole time I was in office.

Q. Do you know whose handwriting the patent was in which you think you signed?—A. No, sir.

Q. Do you know in whose handwriting that copy is in?—A. I have been told.

Q. Was the one you signed in the same handwriting?—A. I could not tell.

Q. Why could you not remember that as well as the color of the ribbon and the writing on the back of the patent?—A. I think that answers itself. A man picking up a patent sees the indorsement on it, and sees the ribbon with which it is bound, before he would examine the writing inside.

Q. Did you examine the writing inside?—A. No, sir; I had no occasion to.

Q. And you do not know what was inside at all?—A. Except the signature and dates, and the fact that there were a number of pages of manuscript parchment, as was customary in patents of that kind.

Q. In looking at the dates, would you not be likely to see the handwriting?—A. I would see the handwriting in which the dates were written.

Q. You saw the handwriting in this patent?—A. I presume I did.

Q. Have you any remembrance whether it was the same as that of this copy?—A. I have no recollection about it.

Q. Why would you not be as likely to remember that, when your attention was called to it, as you would the color and width of the ribbon with which it was bound?—A. I do not know that I can answer that question. I do not know.

Q. There is, then, no reason that you can give?—A. None but what would be evident to the eyes of any one.

Q. I understand you to say the only reason you think you signed that patent is that you always signed all the patents presented to you; do you not have any remembrance expressly of signing that paper?—A. That was not the statement I made.

Q. What is your statement?—A. If the clerk will read it, you will see.

Q. You will please state it yourself.—A. That I remember Panoche Grande as one of three patents signed by me in the early part of 1863—in the spring of that year. I think that was my statement.

Q. Did you state positively you remembered having signed it?—A. Yes, sir.

Q. Was that your statement before?—A. That was my statement before; yes, sir.

Q. Who brought that patent to you?—A. It came in the usual way.

Q. From whom?—A. From the Land Office.

Q. From whom in the Land Office?—A. From the officer whose business it was to send these patents to the President. They came to me by messenger, with a letter. That is about all I would know about it.

Q. Who was the letter from?—A. From the Commissioner of the General Land Office.

Q. Do you know in whose handwriting?—A. I only know the signature, which was that of the Commissioner of the General Land Office. I suppose the handwriting was that of one of the clerks in the office.

Q. Was there any clerk in the Land Office whose business it was to enroll such patents?—A. I do not know what you mean by enroll; I have never seen a patent before it was written.

Q. That is witty, but not an answer to my question. Patents are engrossed, are they not?—A. Engrossing is what I would call preparing for signature; if you had said engrossed, I should have understood you. I suppose it was done by some one assigned to that duty in the Land Office.

Q. Was there any one in the Land Office at that time who had that duty to perform specially; and if so, who was it?—A. I do not remember, if I ever knew.

Q. Is your memory good?—A. Not good enough to remember the assignment of clerks to duty in the Land Office.

Q. My question was, is your memory good?—A. I think it is.

Q. Do you know Mr. Stokes in the Land Office?—A. I know a Mr. Stokes.

Q. What was his business in the Land Office?—A. He was a clerk there.

Q. Had he anything to do with enrolling those patents and sending them to you?—A. I think he was a recording clerk, from what I have heard lately.

Q. Are you acquainted with his handwriting?—A. Not so as to identify it.

Q. What was done with that patent when you signed it ?—A. I always sent my patents directly back to the Land Office, and this must have gone in the same way.

Q. Then you sent it back to the Land Office?—A. According to my custom, from which I never varied. That is the only recollection I have.

Q. Let me understand what it was you signed. You have sworn that you signed something. What was it that you signed?—A. A patent for lands, such as I was in the habit of signing.

Q. A patent for what lands?—A. That I cannot tell.

Q. To whom was that grant made?—A. That I do not know.

Q. Then what do you know?—A. I know that I signed a patent for lands.

Q. You signed a great many patents for lands?—A. I did.

Q. But you do not know to whom or for what lands?—A. No; of course not.

Q. Can you swear that you read a word inside the leaves of what you say was a patent, or supposed to be one?—A. Of course I can, for I read the signing clause. I glanced at the map. Beyond that, I merely noticed a mass of writing and leaves.

Q. And read none of it?—A. And read none of it, except that, seeing that it was a large patent, I glanced at it to see the number of acres and description, as was frequently my custom in these large patents.

Q. You do not remember the number of acres?—A. No; I recollect that it was a very large and valuable patent. I do not recall any one of the patents I had occasion to examine in which I could recollect distinctly the number of acres; and I do not remember the number of this. I have the general impression of it that it was a very large and valuable one.

Q. Did the others of the three patents you have alluded to contain maps?—A. My recollection is that they did.

By Mr. LOUGHRIDGE:

Q. I understood you to say in answer to my question that you did not look into that patent at all, except to glance at it and see that it was for land.—A. I did not make that answer in that form.

Q. Did you see that patent or read any part of it, except at the end of it where you signed?—A. I have answered that question to the gentleman who spoke last. I cannot swear to any other examination of the patent; but it was my custom to look through these large patents, and I presume I did in this case, because I got the impression that it was a large and valuable patent. That is my answer, and I cannot be more minute about it.

Q. You got that impression from the size of the bundle and the general appearance of it, did you not?—A. I cannot say. That is the very point I am making, that I cannot say how I got my impressions.

By Mr. PETERS:

Q. Did you not state a moment ago that you could not say in whose handwriting that patent was, because you had no recollection of having read it, or any part of it?—A. I have no recollection of the handwriting.

Q. Did you at that time ordinarily know the handwriting of the party in whose hand these patents were written?—A. There were some of the clerks whose hands I knew. Others I did not know.

Q. And you cannot say now whether this particular handwriting was one you were familiar with or not?—A. I cannot. I can say very positively that the handwriting of some of the clerks was familiar to me—I know it when I see it. That of others I do not know. I cannot say whether the handwriting of this patent was familiar to me or not.

By Mr. LOUGHRIDGE:

Q. Did you ever execute the President's name to a patent to William McGarrihan?—A. Not that I know of.

By Mr. KELLOGG:

Q. You spoke a moment ago of a letter from the General Land Office accompanying patents for your signature; did such a letter always accompany each patent?—A. Each patent or package of patents inclosed or transmitted.

Q. Then no patent was practically in form for your signature without a letter accompanied?—A. Certainly not.

Q. And you think a letter from the General Land Office accompanied this particular patent?—A. Certainly.

Q. What was done with that letter?—A. I kept my letters for a long time, and then they were lost or destroyed.

Q. Were letters of that kind lost or destroyed?—A. Yes, sir; I considered them of no further value.

Q. Was a record of this kept in the Land Office?—A. There should have been.

Q. These letters were copied, and there should be a copy in the General Land Office?—A. There should be.

By Mr. PETERS:

Q. Have you looked there to see if there was such a record?—A. I have.

Q. Did you find it?—A. I have been unable to find it.

Q. Was there a book, and did you examine such a book in which such letters were regularly recorded?—A. I examined what I was told was such a book.

Q. Did the book bear any evidence of mutilation?—A. No, sir, no mutilation, but a great many blunders.

Q. Did you discover evidence of a page having been torn out, or anything of that kind?—A. No, sir.

Q. When you say errors, do you mean errors in copying?—A. I do.

Q. When was your attention first called to this matter, since the date of your signing this patent?—A. The first that I recollect, was last summer.

Q. You never were applied to before?—A. I cannot say as to that. I was applied to last summer, and whether I was spoken to on the subject during the intervening time, I cannot say, but I am very sure I never was.

Q. Your attention had never been called to it from the date of your signing it until some time last summer?—A. Not that I now recollect.

Q. Who called your attention to it last summer?—A. I was first called upon by a gentleman of the name of Frank.

Q. Connected with the party petitioner here?—A. I believe he is; I am not sure of that fact.

Q. Was there any particular difference in the size, or shape, or general appearance of the three patents you speak of?—A. My recollection is that this was the larger patent; not larger in the size of the sheets, but having a greater number of sheets.

Q. Was it your practice to sign patents without special direction of the President in each particular case?—A. Yes; but never without an accompanying letter from the General Land Office; I required no other direction or instruction.

Q. So that these patents did not come under his personal observation?—A. Not that I know of.

Q. But if they were executed, it was at the instance of the General Land Office; and they were returned there?—A. Yes, sir.

By Mr. ELDRIDGE:

Q. Who was Commissioner of the General Land Office at that time?—A. J. M. Edmunds, I think.

Q. How long did he remain Commissioner after that time?—A. He was there when I left Washington; when he finally left the office I do not know; I think he was Commissioner when I went away in 1864, if I remember correctly.

By Mr. LOUGHRIDGE:

Q. Have you any interest in this grant?—A. No, sir.

Q. Direct or indirect?—A. None, direct or indirect.

Q. Have you any interest in Panoche Grande?—A. No, sir.

Q. Who was this Frank who talked with you about this matter?—A. I am informed that he is in business for himself, but what his business is precisely I do not know. He is a resident of New York, and a broker of some kind. His office is down in Water street.

Q. What is your business now?—A. I am secretary of the Tehuantepec Railroad Company.

By the CHAIRMAN:

Q. You stated that you noticed a difference in the indorsement on the back of this unexecuted patent from that on the back of the one to which you signed the name of Abraham Lincoln by yourself as secretary; state clearly and distinctly what that difference was.—A. I remember the words "Panoche Grande," but I expected to see it in letters about the size of the indorsement on this, but slanting backward instead of perpendicular, as I find them here. The impression I have may have been wrong or right, but that was the impression on my mind, and what I expected to find.

Q. Have you any doubt on your mind that the indorsement on the patent which you signed was "Panoche Grande?"—A. No, sir.

By Mr. ELDRIDGE:

Q. Did you look at the map so as to fix it in your mind?—A. I did look at it; but I do not recollect anything about it. I expected to have a more distinct recollection of it when I came to see it.

By Mr. LOUGHRIDGE:

Q. Is it not a good while from that time until now to recollect the exact position and slant of letters?—A. Yes, sir, it is.

Q. Do you remember it distinctly, without having your attention particularly called to it?—A. No; I do not think I would if my attention had not been particularly called to it.

Q. What called your attention particularly at the time to the slant of these letters?—A. That I cannot tell. I merely know that my attention was called to it; I cannot tell how.

Q. Particularly called to the slant of the letters?—A. No; to the general appearance of the patent.

Q. But you testify, after this number of years, as to the particular slant of the letters.—A. No; I did not state that. I merely said that I expected to find that.

Q. You did not say the letters of the indorsement of the patent which you think you signed were more slanting in the manner in which the letters were written than it appears on this unexecuted patent?—A. I did not say absolutely.

Q. You cannot swear, then, that they were not just exactly like these?—A. I do not think they were. I do not think it is the same. I could not say more than that, because, as you say, it is a small thing to remember.

By Mr. ELDRIDGE:

Q. Is there anything about this map that resembles the one you saw at that time; is there anything by which you can identify it?—A. I could not identify it at this time.

Q. What is your recollection about it?—A. That it was a map of this general character.

Q. Is there anything else—in the number of acres or otherwise—that would enable you to identify these papers?—A. No; my impression, as I have stated, is, that it was for a large number of acres; but whether that impression was derived from the map or otherwise, I am unable to say.

Q. Had you any other means of gaining information of the number of acres, except from the papers presented to you?—A. Not that I now remember.

Q. Do you recollect distinctly that the patent which you signed was a patent for Panoche Grande?—A. I have already replied to that. I do.

By Mr. LOUGHRIDGE:

Q. Do you say that you remember that that was a patent for Panoche Grande?—A. I have sworn that my recollection is, that it was indorsed "Panoche Grande" on the outside.

Q. That is all you know?—A. I have not said that was all I know. I may have other things in my head that are not distinct enough to swear to.

WASHINGTON, *January* 10, 1871.

JULIUS N. GRANGER sworn and examined.

By the CHAIRMAN:

Question. State whether you are recorder of the General Land Office of the United States.—Answer. Yes, sir; I am.

Q. State how long you have filled that office.—A. I think I was appointed in 1853.

Q. State whether you have been recorder from that date to this.—A. I have.

Q. Under the law you are required to countersign patents for the Land Office?—A. Yes, sir.

Q. You countersigned patents for private California land grants, as well as other land grants?—A. Yes, sir; I have no records of the California land grants, or of private land claims. All other grants come under my charge for record.

Q. State to the committee whether you have countersigned on the face or back of the patent, or whether you are certain in regard to that.—A. It is always done on the last leaf of the patent, although the last leaf sometimes contains nothing more than the attesting clause.

Q. Do you mean that you always countersign on the same leaf or page?—A. I always countersign on the last leaf of the patent.

Q. Do you know whether the patent for Panoche Grande was ever presented to you, or not, to be countersigned?—A. No, sir; I could not say whether it was or was not.

Q. You kept no records of cases for California land grants, which you countersigned, except of the letters of transmission?—A. Nothing, except the letters of transmission.

Q. Are these letters of transmission sent to you by the Commissioner of the General Land Office before you countersign the patent?—A. Yes, sir; always.

Q. Are you prepared to say whether there was or was not a letter of transmission, when the patent for Panoche Grande was sent to you?—A. I could only say that I never signed it without there was a letter.

Q. Are you prepared to swear whether such a letter was sent to you?—A. No, sir; I am not.

Q. Do you keep a file of these letters in your office.—A. I do keep them on file.

Q. Have you made an examination of your files to see whether this letter is there on file?—A. I have.

Q. State whether you can find any such letter.—A. I can find no such letter.

Q. State in what way you keep those letters in your office?—A. I will state precisely: I place them in a drawer in my desk, where they remain until a considerable number has accumulated. I then take them out, bind them, and place them in my book-case.

Q. State whether you have looked in your book-case for this letter?—A. Yes, sir; and also in my drawer.

Q. State whether you have made more than one examination of your book-case, and with what result.—A. The first time I made an examination was last summer, when I was called upon to know if there was such a letter. That was the first I heard anything about it. I looked the letters all over carefully, but did not find this letter. Sometimes the letters would become disarranged, or run over into another year, and I looked through tolerably careful, and noticed that there were letters for that year, 1863, which were missing.

Q. State whether you have made an examination since that time.—A. Yes, sir. I took the letters out and put them together in the year in which they were written, and I found that in 1863 there were no letters from January down to June. The files of that year from July until December were all there.

Q. State whether you are satisfied that between January and June, 1863, there were letters transmitted to you and filed by you in the regular course of business in your office.—A. I know there were such letters. I have taken great pains, for this is something that came unexpectedly upon me, to refresh my mind, and I find that there are fifty-one letters of transmission of land grants, under different acts, for my own division, between January and June, 1863. There were, of course, more patents than that. Sometimes a single letter would inclose a large number of patents. The letter would simply say, "Your signature is requested to series of patents from number such a one to number such a one." That was all there was of the letter.

Q. Then you say there were fifty-one letters of transmission which have been taken from your office?—A. They certainly must have been taken, at least I have had them, but cannot now find them. They are out of my office, I am confident.

Q. And letters coming to you from January to June, 1863?—A. Yes, sir.

Q. Have you any knowledge of what has become of them?—A. I have not.

Q. State to the committee whether from an examination of your desk and lock there is any evidence of there having been any interference with the lock or keys in any way.—A. I could not say that there has been any interference with it. It is a very common lock, which can be opened with a very common key. I always kept it locked. I ascertained this just on Saturday last, and yesterday when I came to my office I wanted to make a careful examination, for I knew there had been a large number missing from the files of the year 1863, and I wanted to see if I had these letters on record.

Q. You made no record of the transmission of private land claims?—A. Never. I kept the letters themselves. When I went to my book-case yesterday morning to look over my files again and compare them with the letter book, I found an old key in the lock, and the lock very much disturbed. The key I found was an old brass key, which was in the lock of my book-case; it had evidently been used to unlock the lock, and then pulled back to get it out again. It remained in the lock.

Q. Was that your key?—A. No, sir. I inquired carefully of others, and could find no one who had any such key.

Q. Where did you find this key?—A. In my book-case, where I keep my files.

Q. And what did you say in regard to its use?—A. It had evidently disarranged the lock, so that the key could not be drawn out without a good deal of trouble.

Q. When did you first make the discovery that these letters of transmission had been taken out of your possession?—A. Last summer; but I had not settled down in my mind that they were really lost. I expected to find them in some other place. I made the discovery in looking, after the adjournment of Congress, in regard to some matters before the courts, and I then had the letters overhauled and put into the files for the year in which they were written.

Q. Have you heard the testimony of Mr. Stoddard before the committee to-day in regard to California land grants?—A. Yes, sir; I heard most of it.

Q. Can you state to the committee whether there is a record of the other two grants referred to by him?—A. No, sir. I never looked over these private land grant records.

By Mr. ELDRIDGE:

Q. Have you found all the other letters in your files?—A. I have not gone through them all to see whether they are all there; but they are all arranged for their respective periods in files of about the same size, and I have run them back in that way to 1856, and judge from the size they are all there except from January to June, 1863.

By the CHAIRMAN:

Q. Look at the indorsement made upon this record book, page 321 of California land grants, volume 4, and state whether the signature "J. N. Granger, recorded," attached to it, is your signature.—A. Yes, sir; it is.

Q. State whether it was written at the date it purports to have been.—A. Yes, sir; it was written July 25, 1870.

Q. What is there written across the face of this record of the Panoche Grande land grant?—A. "Department Interior, General Land Office, July 25, 1870." This record, from pages 312 to 321 inclusive, was made in accordance with the custom at the time in anticipation of the original being submitted to the officers whose duty it is under the law to sign land patents. But an order dated March 13, 1863, having been received from the Acting Secretary of the Interior to suspend the execution and delivery of the patent, under decision of the Department of the 4th of March, 1863, until further advised in the case by the Secretary, the form of patent which had been prepared, and from which the aforesaid record was made, was not submitted for signature, and has never been dated, signed, nor delivered—signed by the Commissioner of the General Land Office and by myself.

Q. State to the committee whether you know it to be true that the form of patents from which this record was made never was dated.—A. No, sir, I do not.

Q. Do you know that it is true that the original patent from which this record was made was not dated?—A. No, sir, I do not know anything about it, and so stated at the time. I signed this certificate under the written order of the Secretary, and the verbal order of Mr. Wilson, that I should sign the certificate as written. I did not like to sign it for the reason that I did not know anything about it; but I took it as a matter of official honor that it was all right.

Q. What Secretary did you refer to?—A. The Secretary of the Interior, J. D. Cox. I was called to the room of the Commissioner without knowing what for. I was shown the order of the Secretary and directed to sign the certificate.

Q. Do you know that the form of patent which had been prepared, and from which the aforesaid record was made, had never been submitted for signature?—A. No, sir, I do not know whether it had or had not been.

Q. Do you know that the form of patent which had been prepared, from which the aforesaid record was made, had never been sent?—A. No, sir; I do not know whether it had ever been sent or not.

Q. You did not know these facts to be true when you signed this certificate.—A. No, sir, I did not. I signed it on the written order from the Secretary requiring me, and signed it under the verbal direction of Mr. Wilson.

Q. You mean Joseph S. Wilson, Commissioner of the General Land Office?—A. Yes, sir.

Q. State whether or not his signature to the certificate was made in your presence?—A. No, sir; it was signed by him before I came into the room.

Q. State anything he said to you when you came into the room.—[Question objected to by a member of the committee and withdrawn.]

Q. Did Mr. Wilson direct you to sign it?—A. Yes, sir; he did.

Q. Did you protest to him that you did not know the facts stated?—A. I made the remark, and I believe Mr. Stoek was present. I took it as a matter of course that it was all right. I did not know the facts because they did not come under my supervision at all. I had never seen the record before and knew nothing about the matter.

Q. State whether you are acquainted with the handwriting in pencil on the margin of this record?—A. I do not know that I am acquainted with it. I may be, but I could not identify it.

Q. Do you know when it was put there?—A. I do not.

Q. It is in pencil, is it not?—A. Yes, sir.

Q. You do not know when the pencil line was drawn across the figures 14th?—A. I do not. I had never seen the record until then.

Q. And you do not know anything about it?—A. No, sir. I might state one circumstance which may have a bearing here, and which may not. It seems from my records that I was absent from the city from the 11th of March, 1863, up to the 1st of May following, and I find from my memoranda that I was with my family, who were sick in New York, and that during this time the acting secretary signed the letters.

By Mr. MERCUR:

Q. Who received these letters while you were away?—A. Mr. Buell, the acting secretary. He continued to act in my place until about the 1st of May; but it had been his custom always to file the letters received by him with me, and I believe he testified, on a former occasion, that he did file them with me on this occasion.

Q. Do you say that he gave the letters, during this period, to you?—A. He was in the habit of doing it. I asked him yesterday if he always returned these letters to me, and he stated that he did. I have no doubt that he did, or believed he had done so.

Q. Can you state how many were recorded in your absence?—A. I could not do that precisely; I took no memorandum. I noticed the date when I commenced signing again; there were quite a number.

Q. I understand you to say that none of the letters are to be found from January to June?—A. None.

Q. Have you any record of the transmission of California land grants?—A. No; I never had any record of them.

Q. This record is marked "acting recorder of the General Land Office;" state in whose handwriting it is made.—A. I believe this to be in the handwriting of Mr. Stoek.

Q. Has he been record clerk long in the Land Office?—A. I think since 1861.

Q. State whether he is a careful and accurate recorder?—A. He is a very careful copyist. When I wanted any copying done with more than usual correctness, in my division, I always gave it to him. He was very careful and followed copy exactly. He was very trusty in that respect, and I think it was because of that reputation he had that he was taken from my division.

Q. What do the letters on this record, "E, X, D," indicate?—A. That indicates that the record had been compared with the patent and found to be correct.

Q. By whom is that comparison made?—A. In my division we have an examining board of three clerks who do it. I do not know how this is done in the records of private land claims.

Q. The object of comparing is to ascertain if there is any decrepancy between the record and the patent?—A. Yes, sir.

By Mr. ELDRIDGE:

Q. When that is done is the patent completed?—A. Yes; it is complete so far as the record is concerned. The seal is not yet on, and formerly there was a custom in the office to sign the patent after the body of the patent and record was "examined."

Q. The date and everything of that kind is filled in?—A. It has been practiced heretofore, to complete the examinations and comparison of the patent and record before the President or recorder's name was affixed, so that no incorrect patent should bear their signatures.

Q. How long did it take to make this record, from page 312 to 321?—A. Mr. Stoek is a very slow writer. He was probably three days making that up; he writes very slowly and very carefully.

By Mr. KELLOGG:

Q. If I understand you correctly, you did not discover that the lock of your bookcase had been tampered with last summer?—A. No, sir; not until yesterday morning.

Q. If there had been all the letters, from January to June, taken out before yesterday, would you have known it?—A. Not unless my attention was called to it.

By Mr. PETERS:

Q. When did you first miss these letters?—A. I could not give the date—shortly after the adjournment of the last session of Congress.

Q. Before yesterday, of course?—A. Yes, sir; and I then made an examination, and arranged the letters carefully myself, so as to become satisfied that they were gone.

Q. Do you recollect making an affidavit on the 27th day of August, 1870, in which you stated "that this deponent has carefully examined the files in his office, and the records thereof, of letters transmitting patents for signature, and that there is no letter, communication, or other paper on said files, or in said office purporting to inclose any patent, or to request or direct the signature of the recorder to any patent for a tract of land in California, known as Panoche Grande, and that there is no evidence in said office that any patent for said tract of land, called Panoche Grande, was ever signed by this deponent as recorder, as aforesaid; and this deponent has no recollection of ever having signed any patent for said tract of land?"—A. I remember that distinctly.

Q. Is it true that you had then carefully examined the files in your office?—A. Yes, sir; I had examined them once, but not as carefully as I have since.

Q. When you have had important patents transmitted to you to sign, have you usually retained a recollection of them?—A. No, sir; I have not; I have signed so many of them, often from thirty-five to fifty thousand a year.

Q. You have no recollection whatever that you have signed a patent for this tract of land?—A. No, sir; my attention is rarely ever called to one of these land claims. Some of them cover very important grants; but I assume they are all right when sent to me from the private land claim room, and I assumed that when I signed this certificate across the face of this record without knowing anything about it, that was the truth of the case.

Q. You believed it to be right?—A. Yes, sir; I believed it to be right as a matter of official honor.

By Mr. ELDRIDGE:

Q. State whether the Secretary or President did not have to sign just as many patents as you did?—A. Yes, sir; just the same number.

Q. And how many do you say you signed?—A. During the war the sales of land became very light; since 1865 they have averaged from 36,000 to 45,000 a year.

Q. And you do not pretend to remember all that you have signed?—A. No, sir.

Q. How many during the war, or about 1863?—A. They ran down to probably 20,000 a year during the last war; I do not remember just how many in 1863; I think not more than 20,000, and probably not so many.

Q. How many of these California land claim patents probably in that year?—A. Probably not one in two weeks. Mr. Stoek, however, could answer that question accurately if you wish it.

WASHINGTON, D. C.,
January 16, 1871.

THEODORE F. STOKES sworn and examined.

By Mr. LOUGHRIDGE:

Question. State whether you made and signed an affidavit dated 29th of August last in regard to this claim?—Answer. Yes, sir. That was taken before Mr. Brown. I have now before me a printed copy of it.

Q. You may say whether the statements in the printed affidavit you have now before you are true or not?—A. They are true. I wish to say, however, that since I made the affidavit this record from the Land Office has had a certificate written across it in red ink, which is not in my handwriting, and which I did not make. I submit the printed copy of my affidavit to the committee as part of my evidence.

Q. Was there ever any other patent prepared in the Panoche Grande case than the one referred to in your affidavit?—A. I could not say.

Q. State whether there was to your knowledge.—A. I have no knowledge of any patent having been made in the office except the one that record is made from.

Q. Could a patent for this land have been made and duly executed, sealed and countereigned, in 1863, without passing through your hands?—A. Oh, yes, sir.

Q. Or without coming to your official knowledge?—A. Yes, sir.

Q. If that patent had been signed and not delivered, where would it have remained?—A. I presume it would have remained in the private land claims division. At the time that record was made I was clerk in the recorder's division. The mode of doing the business in our division was different from what it was in the private land claims division.

By the CHAIRMAN:

Q. You testified before this committee in this matter on a former occasion, did you not?—A. Yes, sir.

Q. Do you remember being asked from what you made the entry in this record of the signature of the President and Secretary?—A. I think I was asked that question, and think I stated that it was made in accordance with usage in the recorder's division.

Q. Do you remember having answered that it was a printed form that was made out?—A. I remember that in all California patents the granting clause was printed.

Q. Do you mean that you made that record from a printed form?—A. I think so. Yes, sir.

Q. Can you furnish that printed form?—A. No, sir; I cannot.

Q. Can you account for the description in the printed form which is in this record of the survey, &c.?—A. I can only say that I followed the copy.

Q. Can you produce the original you made this record from?—A. No, sir; I cannot.

Q. Do you say now that you know there was ever a printed form for California special cases?—A. No, sir; only from the manner in which I generally did business. I have written a great many patents for private land claims, and this form of patent was printed.

Q. You did not write the original from which this record was made at all?—A. I only made the record.

The copy of the affidavit referred to is as follows:

"DISTRICT OF COLUMBIA, *County of Washington*, ss:

"Be it remembered that on this 27th day of August, A. D. 1870, before the subscriber, a notary public in and for the county aforesaid, personally appeared Theodore F. Stokes, who, being first duly sworn, deposes and says that he is a resident of Washington, D. C., and is now and has been continuously since May 1861, a clerk in the General Land Office; that in the month of March, 1863, he was detailed to make a record of the form of patent that had been prepared for a tract of land in California called Panoche Grande; that the record in volume 4 of California private land claims, pages 312 to 321, both inclusive, was made by this deponent, and is in his handwriting; that it was the usage and custom in the recorder's division of the General Land Office, in which division this deponent was then a clerk, to make the record or copies of the patents before the signatures of the recorder and of the President or his private secretary were affixed thereto, and to make said records and copies complete in anticipation of the signatures of said officers, and as though said signatures had been already affixed; that to the best of the knowledge and belief of this deponent the record hereinbefore

referred to was made in accordance with said usage and custom, and to the best of the recollection and belief of this deponent said record was made by this deponent from a form or draught of a patent not signed by the President of the United States, nor by his secretary, nor by the recorder of the General Land Office, nor was the seal of the General Land Office affixed thereto; that this deponent is confirmed in this recollection by the fact that in said record the name of the recorder does not appear, and this deponent left the same blank because he did not know who would be the acting recorder on the day said form or draught of a patent should be actually signed. This deponent further says that he is not now, nor has he ever been, directly or indirectly interested in the claim of the New Idria Company, nor of William McGarrahan, nor of any other person or corporation, to said tract of land called Panoche Grande; nor did he know of the existence of said New Idria Mining Company at the time said record was made, nor for a long time thereafter.

"THEO. F. STOKES.

"Sworn to and subscribed before me this 29th day of August, 1870.

"EDM. F. BROWN,
"*Notary Public.*"

WASHINGTON, D. C., *January* 16, 1871

W. H. LOWRY sworn and examined.

By Mr. LOUGHRIDGE:

Question. You have in your hand a printed copy of an affidavit purporting to have been made by you in August last. Say whether you made that affidavit, and whether the statements it contains are true?—Answer. I made it, and the statements it contains, as printed, are true.

By the CHAIRMAN:

Q. Have you filed a paper in this case brfore this committee, dated August 12, 1868?—A. I do not know that I have filed any paper before the committee.

Q. Look at Executive Document 48, part 3, pages 151, 152, and 153, signed W. H. Lowry, for the New Idria Mining Company, and state whether you filed that paper?—A. This paper, I presume, from its marks, was filed with the Commissioner of the General Land Office. I filed a good many papers from time to time with him on that subject.

Q. Did you file it as attorney for the New Idria Company?—A. Yes, sir.

Q. You were at that time in the employ of this company contesting the title of McGarrahan?—A. I was in the employ of the New Idria Mining Company for the purpose of pressing their claim to a patent, without regard to any other claimant, at that time.

Q. Had it regard to this Panoche Grande rancho?—A. It must have had.

Q. That was an application for a patent to how much land?—A. For a three-quarter section, as I remember.

Q. When were you employed for the New Idria Company?—A. I think about the close of the year 1867.

Q. Have you remained in their employ ever since?—A. Yes, sir.

Q. Did you ever compare this record in volume 4 from the Land Office which is now before you?—A. In regard to Panoche Grande, I did examine it.

Q. I did not say examine it, I said compare it.—A. Yes, I did compare it.

Q. When?—A. It must have been about the date which is indicated by the pencil mark.

Q. Is there any pencil date to it?—A. There is a pencil date on the record, and that is the only way I can identify the time.

Q. When did that pencil date get into ink?—A. I think it is there in pencil now.

Q. Did you compare the record with the patent at that time?—A. I did. It was my duty at that time.

Q. When did you do it?—A. I cannot say exactly the date.

Q. Do you know what month?—A. Yes; I know very well the month, because it must have been about the time the order arresting the issue of the patent came to the Land Office.

Q. Do you know with what order or regularity they make up the records of these patents in that office?—A. I know what was my practice when I was there; I can say nothing of what has occurred since.

Q. Were you, or not, required to make comparison of the record with the original, whether there was an order of arrest or not?—A. I should not have done so, unless they were going to send the patent out to be signed.

Q. Were not all your records compared when made up by the examiner?—A. That was the general custom; but, if I had known that a patent was not going out to be signed I should not have examined the record.

Q. Had there not been an order to make up this patent for issue?—A. There had been two of them.

Q. Did you make this comparison before or after the signature had been affixed?—A. Our practice was to make the record before.

Q. Did you ever know a patent recorded and marked examined without any name appended to it?—A. I think that happened several times in my experience when we employed clerks outside of the division.

Q. Was that ever done without putting your name to it?—A. Yes; when I compared a record made with the patent and found afterwards that it was not issued or signed, I would strike out the signatures and write in pencil "not signed." This happened several times.

Q. Do you know of more than one case in this or any other record for land grants, where the record shows the signature of the President and Secretary and the seal of the Land Office, without the date, and on which the words "not signed," were written in pencil?—A. My attention has only been called to this one; I have no doubt there are several.

Q. Do you know of any other on this record?—A. I cannot call to mind any other special case, but I know it was my custom when I found that a patent had actually not been signed, to strike off the signature and dates.

Q. Do you know when Judge Otto's order to arrest the issue of this patent was received at the Land Office?—A. I do not. The record, I think, shows that it was about the 16th or 17th of March, perhaps. The letters on file also show.

Q. Who ordinarily writes the word "examined" on a record?—A. The man who holds the record for the comparison, and the man who holds the patent, in comparing, writes the same word on the patent.

Q. Has the indorsement on a record of the United States, "examined," any other significance than to certify that it is a true copy of the original?—A. The only significance it had in my experience was to show that it had been compared with the original patent.

Q. Then it meant that there was a patent corresponding with the record?—A. It meant that it was a true copy, except where it was marked otherwise.

Q. I ask you to state now whether there is any instance except the one you are talking about, in which the record of the United States shows "ex'd" on the face of the record, and where there is neither the seal of the office nor the signature of the President to it?—A. I have no doubt there is. That is all I can say about it. If I compared an unsigned patent with the record I marked it as examined. That was understood in the office.

Q. In whose handwriting is the word "examined" on page 312 of this record?—A. It is not mine, and I do not know whose it is; I think it is Mr. Stoek's. I generally held the patent in making the comparison.

Q. You can state no case where this mark is on the record, which has neither the signature of the President, nor the seal, nor the date?—A. I cannot now, from memory, state any particular case. I can only state what was my habit, and that I adhered to to it pretty closely.

By Mr. ELDRIDGE:

Q. Did you, while you were in the Land Office, hold any correspondence with E. L. Gould about this Panoche Grande case?—A. None, whatever, I think.

Q. Did you ever telegraph him?—A. It is possible I may have done so within the last two or three years; I do not remember that I did.

Q. I refer to the time when you were in the Land Office, and before you were in the employ of the New Idria Company?—A. I may possibly have done so; I do not recollect it; and I am pretty positive that I did not while I was in the office. I should have referred any matter requiring an answer to the head of the office.

Q. Did you give any information in regard to the case?—A. I think not; I do not remember having given any, and such was not my habit.

Q. While you were clerk in the office, were you in the habit of having intercourse with Mr. Gould in reference to the state of this title, and the proceedings of the Government in regard to it?—A. Certainly not.

Q. You are sure of that?—A. I am sure of that; I had no knowledge of the existence of this mining claim until long after I left the office; not, I think, until 1868, when I was retained in the case.

The affidavit referred to in the above testimony is as follows:

"DISTRICT OF COLUMBIA, *Washington County, ss:*

"On this 27th day of August, 1870, before me, a notary public in and for the county aforesaid, personally appeared William H. Lowry, who being duly sworn according to law, deposes and says as follows:

"That for several years prior to July 1, 1863, he was a clerk in the General Land Office, in charge of the division of private land claims, in which capacity it was part of

his duty, under the direction of the Commissioner of said office, to superintend the preparation and recording of all patents for private land claims; that the practice of the office in such cases when a patent was ordered was to have it engrossed and recorded, after which a letter was addressed by the Commissioner to the recorder of the General Land Office, and another to the President's secretary to sign land patents, describing the patent, stating the volume and pages where recorded, and requesting the signature of those officers to said patent; the said letters being always recorded in the letter records of the private land claims division, and no patent was submitted for signature unless accompanied by such letter, duly recorded as aforesaid; and deponent further says that he distinctly recollects the claim known as 'Panoche Grande,' and that no patent was issued for said claim up to 30th June, 1863, when he left the General Land Office.

"That a patent was engrossed and recorded for said claim, but never signed, for the reason that before it was sent to the secretary and recorder for signature, an order came directing the withholding of said patent; which was done accordingly, and the said incomplete and unsigned patent remained in the private land claims room, in the custody of deponent while he remained in office, and he is satisfied and believes, from having lately seen and examined it, that the said unsigned patent, known to him by the handwriting, marks, and other evidences, is the unsigned patent still on file in the General Land Office; and deponent further says that the record of said patent was made by a clerk in another division of the General Land Office, who erroneously, and contrary to the practice of the private land claims division aforesaid, inserted in the record the name of the secretary to sign land patents; that in comparing said record with the patent, which was the duty of deponent, and finding the name of the secretary had been inserted in the record, and receiving the order to withhold the patent, he erased the name of said secretary in the record by crossing it in pencil, and writing on the record opposite said name the words '*not signed*,' where they remained lately, and are probably still there.

"Deponent further declares that no other patent was prepared for said 'Panoche Grande' whilst he was a clerk in the General Land Office than the unsigned one now on file in that office, and that none could have been issued for it without his knowledge prior to July 1, 1863.

"Deponent further says that until the year 1868 he had no knowledge of the New Idria Mining Company, or the existence of their claim.

"W. H. LOWRY.

"Sworn to and subscribed before me this 27th day of August, 1870.

"EDM. F. BROWN,
"*Notary Public.*"

WASHINGTON, D. C., *January* 16, 1871.

J. F. STOEK, sworn and examined.

By Mr. LOUGHRIDGE:

Question. State whether you made and executed an affidavit in regard to the matter of this claim on the 22d of August last.—Answer. Yes, sir; I have before me a printed copy of that affidavit.

Q. Say whether or not all the statements in that affidavit are true.—A. I believe it to be the same affidavit I made, and that all the statements are correct. I could not state as to dates without comparing them. The probability is that I did it before that time.

By Mr. ELDRIDGE:

Q. What was the habit of the office in regard to the recording of the business letters of the office; were they recorded on the date of their receipt?—A. Letters received by the office were not recorded at all; they were kept on file; I mean letters transmitting patents to be countersigned by the recorder. It did not necessarily follow that they were recorded on the date which they bore, for other business might come in and crowd them out.

Q. If they were not recorded on the same day, what was done with them in the mean time?—A. They were kept in the division of private land claims.

Q. Where and how were they kept?—A. I do not know. Mr. Lowry was in charge of that division at that time. They were in charge of the head of the division.

Q. Would they not in fact remain on a spindle upon the table of the clerk in charge of the division until a certain number had accumulated for record?—A. No. There was never a spindle in his office that I am aware of. They would, perhaps, have been handed to the clerk, whose duty it was to record them.

Q. Were they recorded in the order in which their dates appear?—A. Yes, sir; they should have been.

Q. Do they not appear now on the record as recorded out of such order, those of later date having been recorded earlier, and those of earlier date later?—A. That was sometimes done.

Q. Was not that frequently the case?—A. I do not know without examining the record.

Q. And in the mean time these letters were kept by the clerk, whose duty it was to record?—A. I only say it is probable they were handed to this clerk. He should have recorded them in the order of their dates.

Q. Did not two, three, and four weeks often elapse from the date of these letters until they were actually recorded?—A. I do not know, without examining the record, one way or the other.

Q. And you cannot answer the question one way or the other?—A. No, sir.

By the CHAIRMAN.

Q. Is there any record of the letters transmitting patents at all by the recorder?—A. I do not know what his practice is. I am only speaking in regard to the division of private land claims. I know nothing in regard to how the records of the recorder's division are kept. I have been in the private land claims division since 1861, and nearly all the time I have been connected with the Land Office, and I, therefore, only speak of the practice in that division.

Q. I mean in that division.—A. The recorder of patents is not in that division at all.

Q. Does he not countersign the patents?—A. Not in the private claims division.

Q. I mean in his own division.—A. Yes, in his own.

By Mr. LOUGHRIDGE:

Q. Who examined this unexecuted patent and marked "Ex'd" upon it?—A. That is my writing.

Q. Is that last page of the record in the same handwriting?—A. It is in the same handwriting.

Q. What do these letters "Ex'd" mean?—A. They mean a comparison of the record with the rough form of the patent which had been prepared.

Q. What were they put there for?—A. Merely to show that the patent before it had been signed by the President's secretary, or by the recorder, and had been compared with the papers upon which it was based.

Q. When were these letters put on it?—A. Before it was sent for signature.

By the CHAIRMAN:

Q. Did you say that these letters were put on that record after the record was made?—A. After the record was made, certainly.

Q. And after the patent was signed?—A. No, sir; not after the patent was signed.

Q. Are there not other instances in that record which show the patent was not signed at all?—A. Yes, sir.

Q. Is any such record marked examined?—A. I do not know. Here is one from page 58 to 63, not signed, and I do not find upon it any mark that it has been examined or compared.

Q. How long since that record has been made?—A. I do not know.

Q. Does not the book show?—A. The book shows that it was made before a certain time. The date is the 9th of August, 1866; but that is merely an evidence that the record was made before that.

Q. It has never been examined?—A. No, sir, it has not, because it has never been executed. I did not usually examine them, unless they were sent for signature.

Q. Look at page 23.—A. Yes, sir; that patent was signed June 9, 1862.

Q. Look at page 52.—A. The patent, a part of which is recorded on 52, appears to have been signed.

Q. State whether the signatures to some of these records do not appear to have been put on afterward in another hand.—A. Yes, sir.

Q. Look on page 466.—A. This is a patent, the termination of which is on page 475, and appears dated, signed, and sent away.

Q. Is it marked as examined?—A. The word "examined" is written on it in full.

Q. Has your attention been called to the fact that there were several other records there, where the name of the President and his secretary have been inserted on the record by another hand altogether than that of the man who made up the record?—A. That is usual; I usually did that myself. I can only speak of the practice since I have been there. I think the first patent in this book is one that has not been examined or compared. The granting clause of this is on page 17; I see, however, a note referring for correct copy of this patent to the pages 88 to , inclusive. I suppose, therefore, that this patent has been executed, but that this is not a correct copy of it. The second patent recorded in the book has the record in one handwriting and signature in another. The next is in my own handwriting, date, signature, and all. On page 69 is another in my own handwriting, date, signature, and all. There is no regularity about the practice, though I think the record is oftener in one hand, and the date filled in by another.

By Mr. ELDRIDGE:

Q. Can you find in that book another record in which the dates, signature, seal, and everything are filled in where the record is marked "examined," and yet where the patent was never issued?—A. I do not know, and cannot answer without looking through the books, whether there is any such record in this book or not.

Q. Look on page 69, and state when, and by whom, this mark "Ex'd" was put there.—A. I do not know when it was put there.

By the CHAIRMAN:

Q. What is the date of the record there?—A. The 19th of August, 1866.

Q. Then the examination must have been made about the year 1866, was it not?—A. It must have been made before that time. When I first came to the office I wrote a great many patents, and recorded them, which were never sent, the rule being not to send out a patent until it was applied for by the claimant or his attorney.

By Mr. ELDRIDGE:

Q. Were these dates put on in your handwriting?—A. I do not know whose handwriting they were in.

Q. Was it the custom to place them there?—A. The practice was to put them on when the patent was signed.

Q. Do you have any knowledge or recollection when that was done in this case?—A. No; I have not.

By Mr. LOUGHRIDGE:

Q. Have you any knowledge at all in relation to this patent on page 69?—A. No; I do not know what it is.

Q. Have you any distinct knowledge in reference to this Panoche Grande record?—A. I have, from the particular circumstances attending it.

Q. Was the President's signature on that record when it was marked "examined?"—A. No, sir; it was not.

By Mr. ELDRIDGE:

Q. When was that mark, "Ex'd" put on?"—A. I cannot tell that. I recorded the patent myself, but the dates are in a different hand from mine.

Q. Can you state when this record was put in the book?—A. I cannot for the reason I have stated. I think the dates were put there by Mr. Sloan.

Q. When did Mr. Sloan come into the office?—A. I think in 1864.

Q. Can you not tell within two years when you made that record?—A. No; I cannot. I do not think it was in 1866 at all, because I was not making up these records then as a rule.

Q. It is probable that this record which appears on page 69 was made before 1863?—A. Yes; it is very probable it was.

Q. And then it was dated in 1866 by another clerk?—A. Yes, sir.

The affidavit referred to in the above testimony is as follows:

"DISTRICT OF COLUMBIA, *County of Washington, ss:*

"Be it remembered, that on this 27th day of August, A. D. 1870, before the subscriber, a notary public in and for the county aforesaid, personally appeared Jacob F. Stoek, who being first duly sworn, deposes and says that he is a resident of Washington, D. C., and is now principal clerk of private land claims in the General Land Office, and, as such clerk, is in charge of the division of private land claims, its files and records, under the direction of the Commissioner of the General Land office; that he was appointed a clerk in the General Land Office in April, 1861, and in the latter part of said year he was assigned to duty in said division of private land claims, and has been on duty in said division continuously from that time to the present date; that he has a distinct and perfect knowledge and recollection of all the facts and circumstances pertaining to the preparation of the unexecuted and incomplete patent, or draught of patent, now in the custody of the deponent in said division of private land claims; that in the month of March, and within a few days of the date written on said form of patent, in pencil, this deponent received instructions from William H. Lowry, then in charge of said division of private land claims, to engross a patent for a tract of land in California known as Panoche Grande Rancho; that in obedience to said instructions this deponent did engross the draught of a patent according to the form furnished to him by said Lowry, and completed the engrossment thereof in his own handwriting, on the 13th or 14th day of March, 1863, as this deponent believes; that said form or draught, when engrossed as aforesaid, required to complete it the signature of the recorder of the General Land Office, and of the President's secretary to sign land patents, or of the President, and the seal of the General Land Office. The date was in pencil. That after said draught of a patent was engrossed, as aforesaid, the same was retained in the division of private land claims in consequence of the receipt from Hon. W. T. Otto, Acting Secretary

of the Interior, dated March 13, 1863, and received in said division on the 14th day of March, 1863, and was not sent to the recorder, nor to the President of the United States, nor to the secretary of the President to sign land patents, for signature; that said draught of said patent has never been out of the General Land Office except on two occasions, once upon the call of the Hon. James F. Wilson, chairman of the judiciary committee of the House of Representatives, on the 18th day of January, 1867, and once to the Hon. John A. Bingham, having been sent in charge of a clerk in the Land Office, July 7, 1870. On the first occasion it remained out of the General Land Office until the 3d day of May, 1867, and was in the mean time sent to the Public Printer to obtain a printed copy as a part of the report of the judiciary committee. It was returned in the same condition it was in when sent to the chairman of said judiciary committee, except that the stitching which bound the leaves had been cut at the printing office for convenience in printing; that the leaves thus loosened were stitched together again by direction of this deponent; that the unexecuted patent thus stitched together by order of this deponent, and now in the division of private land claims, is the identical one prepared by this deponent in 1863, in his own handwriting, and is unaltered and the same in every respect except in the stitching, and that no other form or draught for a patent for said tract of land in California called Panoche Grande has ever been prepared in the General Land Office since the beginning of the year 1862. This deponent is able to make this assertion positively, because of his familiarity with the business of said office, and because no patent was or could have been prepared in said division without the knowledge of this deponent. This deponent further says that in the year 1863 and for a long time thereafter he was ignorant of the existence of the New Idria Mining Company. This deponent further says that he has read the charges made in the 14th section of a "bill in equity between William McGarrahan and the New Idria Mining Company" and others, filed by William McGarrahan in the supreme court of the District of Columbia, and that the same, so far as they relate to this deponent, are utterly false; that he has not now nor has he ever had, directly or indirectly, any interest in said company or in any controversy between said company and said McGarrahan; nor has he ever received any money or other valuable consideration or promise from any person or persons connected with said claimants, or either of them.

"J. F. STOEK.

"Sworn to and subscribed before me this 27th day of August, 1870.

"EDM. F. BROWN,
"*Notary Public.*"

WASHINGTON, D. C., *January* 16, 1871.

MARTIN BUELL sworn and examined.

By Mr. LOUGHRIDGE:

Question. State whether on or about the 27th of August, 1870, you made and signed an affidavit in this case, and whether the printed copy you now have in your hands is a copy of that statement, and whether the facts therein set forth are true.—Answer. I did make such an affidavit, of which the printed copy now before me seems to be correct. The statements made in this affidavit are true.

By the CHAIRMAN:

Q. You were acting recorder in the General Land Office for the purpose of recording patents?—A. I was at that time and before.

Q. When Mr. Granger, the recorder, returned to the city, state whether you delivered to him the letters transmitting patents for him to countersign, which you had received in his absence?—A. That was my custom invariably. As soon as he returned I delivered them to him.

Q. In the meantime, state whether you kept them in the same office which you occupied.—A. I did keep them in the office which I occupied, taking them to his room after he returned.

Q. Was he absent at any time in 1863?—A. Yes, sir.

Q. And you were acting recorder while he was absent in 1863?—A. Yes, sir.

Q. And whatever letters were transmitted to you with patents for signature you handed over to Mr. Granger on his return?—A. Invariably.

The affidavit referred to in the above testimony is as follows:

"DISTRICT OF COLUMBIA, *County of Washington, ss:*

"Be it remembered that on this 27th day of August, A. D. 1870, before the subscriber, a notary public in and for the county of Washington, personally appeared Martin Buell, who being first duly sworn, deposes and says that he is a resident of Washington, D. C., and a clerk in the General Land Office; that from July, 1861, to some time in the year 1869 he was principal clerk of private land claims in said General Land Office, and ex-officio was acting recorder in the absence of the recorder, and signed all

patents in the absence of said recorder; that it is the uniform custom of the office that all patents are prepared for signature by the Commissioner, and sent by the Commissioner to the recorder with a letter addressed to the recorder describing the patent and requesting the signature of the recorder; that said letters transmitting patents for signature are carefully preserved and filed in the office of said recorder, and that while acting as recorder this deponent never signed any patent unless by the direction of the Commissioner of the General Land Office expressed in a letter. This deponent further says that he never, while acting as recorder, as aforesaid, signed any patent for a tract of land in California called "Panoche Grande," and that during the year 1863 no person was authorized to sign patents for land, as recorder, except Julius N. Granger, recorder of the General Land Office, and this deponent, in the absence of said Granger.

"MARTIN BUEL.

"Sworn to and subscribed before me, this 27th day of August, 1870.

"EDM. F. BROWN,
"*Notary Public.*"

WASHINGTON, D. C., *January* 16, 1871.

JOSEPH S. WILSON sworn and examined.

By Mr. LOUGHRIDGE:

Q. State your official position.—A. I am at the present time acting as Commissioner of the General Land Office.

Q. How long have you been Commissioner?—A. Since the 1st of September, 1866. I was also Commissioner from 1859 until, I think, some time in 1861.

Q. You were at the time this unexecuted patent for Panoche Grande was recorded?—A. No, sir; I was not. Mr. Edmunds was then Commissioner.

Q. You were in the Land Office?—Yes, sir; I was chief clerk.

Q. State what you know of the history of this matter.—A. It became a matter of controversy as to whether this title would finally be confirmed in such way as to justify the issue of a patent. My predecessor ruled as his opinion that it would not; but a former Secretary of the Interior, Hon. Caleb B. Smith, decided in favor of the confirmation, and ordered the patent to issue. When Judge Usher succeeded Mr. Smith as Secretary of the Interior he confirmed the same opinion, but at a later period, probably in March, 1863, there came an order to suspend proceedings, and so the matter has remained, as I understand, from that time to this, except in respect to the judicial proceedings which have taken place.

Q. Was that unexecuted patent prepared in your office?—A. That I cannot tell, because I was not in that branch of the office. It was prepared in the private land claims room. I might express an opinion that I have no doubt it was, but I could not say it was from my own knowledge.

Q. Do you know of any patent for this tract of land having been signed by the secretary of the President, countersigned by the recorder of the Land Office, and the seal of the General Land Office attached to it?—A. No, sir; I have no knowledge of any such thing.

Q. Did you make an indorsement upon the record of this patent?—A. The indorsement, I think, was written by one of the clerks in the office. I did not write it. I think it was written in the division of private land claims. It was signed by me and countersigned by the recorder of the office under an order of the former Secretary of the Interior, Mr. Cox.

Q. Was that order in writing?—A. Yes, sir; I think it is here. It is dated July 15, 1870, and I now present it to the committee. It is as follows:

"DEPARTMENT OF THE INTERIOR,
"*Washington, D. C., July* 15, 1870.

"SIR: I have received your letter of the 13th instant, in relation to 'the application, dated the 11th instant, of George W. McGill, as attorney for William McGarrahan, for a certified copy of the record of the Panoche Grande patent.' You inform me that the patent was never signed by the President's secretary to sign land patents, or countersigned by the recorder of the General Land Office, and that the seal of your office was never affixed thereto. As the record is, in your opinion, incomplete, wanting the name of the recorder or acting recorder, you request the ruling of the Department as to whether the copy should be furnished, in view of the provisions of the act of July 2, 1864, entitled, 'An act prescribing the terms on which exemplifications shall be furnished by the General Land Office.' You send me the original instrument and the proposed form of certificate to be attached to the copy asked for, in case such copy should be furnished.

"Your statement is fully established by an inspection of the instrument, and conforms to the evidence which the files of this Department furnish on the subject. I

perceive that, by a letter of the Acting Secretary of the Interior, of March 13, 1863, your office was directed to suspend the 'execution and delivery of the patent until further advised in the case by the Secretary.' No subsequent order or direction in conflict therewith appears. The instrument was never perfected in the mode required by law, and it was, in its incomplete state, improperly admitted to record. It cannot be considered a patent, in the legal sense of the term. A paper writing, purporting to convey lands in fee, if never signed, sealed, and delivered, is not a deed, nor is it effectual to pass the title to the land therein described.

"You informed me in our personal interview that it had been the practice to record these inchoate and imperfected patents, including the name of the President's secretary, before he signed them; and that when they were subsequently so signed the countersigning by the recorder of the General Land Office was afterward affixed to the instruments, and a corresponding change made in the record. I deem the practice to be an objectionable one, and you will give the requisite directions to the recorder to discontinue it. The instrument should not be recorded until it is in all respects complete and ready for transmission to the party who is thereunto entitled. In every instance where record has been made of an uncompleted instrument in anticipation of the due execution of it, and the original is in your office unsigned and unsealed, you will write across the record, in red ink and in legible characters, a statement of the facts, attested by your signature and countersigned by the recorder of the General Land Office; and this statement should appear in the transcript or exemplification of the record of the instrument which you deliver.

"Under the circumstances of this case, I have no objection to your giving the requested copy, attaching a certificate in the form presented to me, upon the applicant's complying in other respects with the statute and regulations of your office. The papers accompanying your letters are herewith returned.

"I am, sir, very respectfully, your obedient servant,

"J. D. COX,
"*Secretary.*

"Hon. JOS. S. WILSON,
"*Commissioner General Land Office.*"

Q. Was it in pursuance of that order of the Secretary of the Interior that that cancellation was made upon the record?—A. Yes, sir, I so understood it.

Q. What is the reason that patent was never signed or executed?—A. The reason, as I understand it, was that there was an order suspending the case by Judge Otto, Acting Secretary of the Interior, which order, as I understand, was made in pursuance of a notification from the Attorney General.

By Mr. ELDRIDGE:

Q. You will please distinguish what you state from your own knowledge and what you state from hearsay.—A. I speak from having seen the order.

By Mr. LOUGHRIDGE:

Q. Was there any other patent prepared for that land?—A. I have no knowledge of any other, and no reason to believe any other was prepared.

Q. If any other had been prepared, would the fact have come to your knowledge?—A. I can only say that it is most likely it would have come to my knowledge. I should have heard of it. Nothing of the kind certainly has come to my knowledge.

Q. How long since you first became connected with the Land Office?—A. I first came in the Land Office in Mr. Adams's administration, and as private land clerk, I think, in 1837.

Q. You have been in the Land Office how many years?—A. Forty years or more.

Q. How much of that time have you been Commissioner?—A. At present, from September, 1866, until to-day. I suppose a few days will relieve me from duty. In 1859 and 1860, I was also Commissioner fifteen or sixteen months. This was near the close of Mr. Buchanan's administration. I was appointed without any solicitation or expectation upon my part, and remained until the incoming administration.

By the CHAIRMAN:

Q. Did you address Secretary Cox any communication about this patent before you received the letter which you have presented here?—A. No, sir; not to my recollection.

Q. Did you communicate your wishes verbally?—A. No, sir; I never waited upon the Secretary in regard to any case unless I was sent for.

Q. You were not Commissioner of the General Land Office at all in 1863?—A. No, sir; I was chief clerk.

Q. Do you know whether the patent recorded here for Panoche Grande was ever signed?—A. I have no knowledge on that subject. From looking at the patent itself I could give you an opinion.

Q. Do you know whether this patent, recorded as dated, signed, and sealed, was signed, sealed, and dated or not?—A. No, sir, I do not.

Q. You do not know whether it was or not?—A. I know from the records. I know nothing about it of my own knowledge.

Q. You do not know whether it was ever presented for signature or not?—A. I do not know that it was ever presented.

Q. And you do not know that it was not?—A. No, sir; only from my general conviction upon the subject. I do not know of any letter having been sent transmitting it.

Q. Personally you have no knowledge that enables you to swear that it never was presented for signature?—A. I have not.

Q. And you do not know that it was ever sealed?—A. I do not know that; I do not know that it was ever sealed, or the contrary.

Q. Where are letters transmitted to the recorder of private land claims—I mean Mr. Granger—for countersigning land patents, recorded?—A. They are recorded in the private land claims division.

Q. Are letters kept by him recorded at all?—A. I could not answer that; it would be very unusual and very unnecessary. I presume he files them in his own office.

Q. State whether in the private land claims office they are recorded in the order in which they are sent or dated.—A. It is their business to record them in their order of date; I do not know personally whether that is done or not.

Q. You have had occasion to look at the records, have you not?—A. I have looked at them generally.

Q. Do the records disclose that they are recorded in the order of their date of receipt at all?—A. I think they do; I may not speak with exact accuracy, however, for I have never overhauled the records in that respect.

Q. You speak of Mr. Otto being Acting Secretary of the Interior; is he created so or not by positive law to your knowledge?—A. I do not know.

Q. Do you know whether there is any such officer as Acting Secretary of the Interior except by special appointment?—A. I do not know whether there is any special statute on the subject or not.

Q. Do you know anything about it?—A. I do not.

Q. It is not usual anyhow, is it, for an Acting Secretary to overrule an order of the Secretary?—A. No, sir.

By Mr. PETERS:

Q. Have you ever found any evidence whatever in the office that a patent to McGarrahan was signed or sealed?—A. I have not.

Q. Have you made diligent search for it?—A. No, I have not; it has not been before me in that form.

Q. Are you sufficiently familiar with the records and proceedings of the office to know it if there was any such evidence?—A. I might know it in one way, and in another I might not. I have never heard of any such evidence.

By Mr. ELDRIDGE:

Q. Are copies of letters transmitting patents retained in the Land Office?—A. That is the rule. It is required that a record shall be made of every letter submitted for signature.

Q. Where should that record have been in this case?—A. In the private land claims division where the patent was made up—in the room in which Mr. Stoek was.

By Mr. COOK:

Q. Regularly, then, the records of the office should show it if a note was addressed requesting the signature of a patent?—A. Certainly, always; that was the uniform rule, and if there was ever an exception, it was an oversight.

By Mr. ELDRIDGE:

Q. How came you to sign the note cancelling this record?—A. I did it upon a letter of the Secretary of the Interior directing it.

Q. You did it upon that order without a personal knowledge of the facts?—A. Yes, sir.

Q. Did you advise the Secretary to make that order?—A. No, sir; I never did.

Q. Were you the instigator of, or did you have anything to do with making or getting up these affidavits?—A. No, sir; I never heard of them until after they were made.

Q. Did you advise Mr. Steck to make his?—A. No, sir.

Q. Did you speak to him on that subject?—A. I do not remember having done so. I spoke to nobody on that subject.

Q. Did you direct Mr. Granger to execute his signature to the cancellation of this record?—A. I handed him the written order of the Secretary, which requires him to sign, and he signed it.

Q. Did you also verbally tell him to sign it?—A. No, sir; I have no recollection that I did.

Q. In answer to a question by Mr. Peters, I understood you to say that you knew of no evidence in the Land Office of any kind whatever that a patent was ever executed

for this land. Is this record itself not evidence of that fact? If there was nothing else showing the contrary, would not that record itself be evidence?—A. I do not know that it would be. The letters and other record evidence would have to be examined in connection with it.

Q. Suppose this record stood unimpeached by any other evidence, would it be of itself evidence to your mind?—A. But it is impeached, and I would not record it as evidence in any event, because it had not the signature of Mr. Granger, the recorder of patents.

Q. Would not the signature of the President, by his secretary, be evidence?—A. Not unless it was countersigned by the recorder. The signature of the recorder must be there.

Q. Would not the signature of the President be conclusive evidence, even without the signature of the recorder? I ask your opinion.—A. I do not think it is conclusive evidence at all; it is only one of the items of evidence.

Q. What was the occasion for the cancellation of that record?—A. That you must ask of the Secretary himself. It was done in pursuance of his order.

Q. Did you think when you were signing that you were signing a cancellation of a record which of itself was no evidence of the patent?—A. I did think so; but in what I did I simply obeyed orders.

By Mr. LOUGHRIDGE:

Q. You have been asked your opinion in regard to this record; let me ask you what is the meaning of the letters "exd?"—A. "Exd" means examined. Whenever a patent is recorded they compare it with a draught from which the record is made, and, finding them to agree, these letters, "exd," are written on it by the clerk in charge.

Q. It would not import that the patent was executed at all?—A. Oh, no, sir; not at all, because it is done before the patent is submitted for signature.

By Mr. PETERS:

Q. Then the patent is usually recorded before it is executed, and instead of being a final act in the usage of your office, it is simply a preliminary act?—A. This was the former usage of the office. The record was made and compared before the patent went up for signature, so as to prevent the necessity of going over the second time after the patent was returned executed.

By Mr. ELDRIDGE:

A. When the patent is returned signed, do you not have to reëxamine the record?—A. No, sir; only to see that the names are properly affixed.

Q. Why were the names of Mr. Lincoln and Mr. Stoddard affixed, and not that of the recorder?—A. That was the rule, because we knew the name of the secretary who alone was authorized to sign, while sometimes the name of the recorder, and sometimes that of the acting recorder was affixed.

Q. Then you put the names of the President and secretary on before the patent was sent to the secretary for signature?—A. That was the rule in Mr. Cox's administration, and, as I said, the name of the recorder was not placed there, because we could not tell whether the recorder or acting recorder would countersign. That, however, was not under my supervision.

Q. Then you know nothing about it, personally?—A. No; I only speak of the practice. I never saw this patent until the matter came up in the way it did. I do not know even the handwriting in which it is recorded.

Q. Who wrote this cancellation in red ink on the face of the record?—A. I do not know the handwriting at all. I think Mr. Stoek wrote it.

Q. The signature is yours!—A. Yes, sir.

Q. Was it written in your presence?—A. No, sir; it was not.

Q. Was there more than one acting recorder at this time?—A. Only one and he is made acting recorder by law.

Q. Was there more than one at any time?—A. Not that I know of.

WASHINGTON, D. C., *January* 16, 1871.

JULIUS N. GRANGER, recalled and examined.

By Mr. LOUGHRIDGE:

Question. Did you ever sign a patent in your capacity as recorder before it was examined?—Answer. No, sir; they were always examined first.

By the CHAIRMAN:

Q. You never signed them at all, did you, unless they had the President's signature?—A. No; the President signs before I do. There may have been cases where there was a large number of patents when I was compelled to leave, in which case I would sign my name before the President's was affixed.

Q. They are not examined until the President's signature is affixed?—A. Not in my division.

Q. What is your division?—A. I have supervision of the military acts, the cash, homestead, and agricultural.

Q. State, if you please, what orders, if any, you received to put your name upon this certificate of cancellation in July, 1867?—A. The first I knew of it was a request by a messenger, or perhaps by Mr. Stoek, to come to Mr. Wilson's room. I went up there and found this record lying upon the table with the certificate upon it written out in red ink. I was requested by Mr. Wilson to sign it, and he at the same time showed me the direction of the Secretary that I should do so.

Q. State whether Mr. Wilson ordered you to sign it?—A. I would not say it was an order. He requested me to sign it.

Q. Who requested you to make the affidavit which has been filed here in print?—A. I think I was requested by Mr. Lowry. I think he first spoke to me about it.

Q. By Mr. Lowry, who has been a witness here this morning?—A. Yes, sir; I think so.

By Mr. LOUGHRIDGE:

Q. Please look over the printed copy of the affidavit and say whether the statements in it are true.—A. I have looked it over. It is correct. I do not desire to change it. The affidavit referred to is as follows:

"DISTRICT OF COLUMBIA, *County of Washington, ss*:

"Be it remembered that on this 27th day of August, A. D. 1870, before the subscriber, a notary public in and for the county of Washington, personally appeared Julius N. Granger, who being first duly sworn, deposes and says that he is a resident of Washington D. C., and the recorder of the General Land Office, and that he has held said office of recorder of the General Land Office continuously, and performed the duties thereof since the year 1853; that he is well acquainted with the usages and customs relating to the transaction of business in the General Land Office, and with the laws of the United States relative to the issue of patents for land; that by provision of law all patents for land are required to be signed by the recorder of the General Land Office, and by the President of the United States, or by his clerk for the signing of land patents, and to be sealed with the seal of the General Land Office; that patents are prepared under the direction of the Commissioner of the General Land Office, and that it is the uniform custom of the office, and one never departed from within the knowledge of this deponent, when patents are ready for signature for the Commissioner of the General Land Office to send them to the recorder with a letter, signed by the Commissioner and addressed to the recorder, describing the patent transmitted and requesting the signature of the recorder; that all letters accompanying patents and requesting the signature of the recorder are carefully preserved in the office of the recorder and filed in said office; that this deponent has carefully examined the files in his office and the records thereof of letters transmitting patents for signature, and that there is no letter, communication, or other paper on said files, or in said office, purporting to inclose any patent, or to request or direct the signature of the recorder to any patent for a tract of land in California known as Panoche Grande, and that there is no evidence in said office that any patent for said tract of land called Panoche Grande was ever signed by this deponent as recorder, as aforesaid; and this deponent has no recollection of ever having signed any patent for said tract of land.

"J. N. GRANGER.

"Sworn to and subscribed before me this 27th day of August, 1870.

"EDM. F. BROWN,
"*Notary Public.*"

WASHINGTON, D. C., *January* 23, 1871.

J. F. STOEK, recalled at his own request, made the following statement:

On examining the printed copy of my testimony before the Judiciary Committee on the 16th instant, I find the following discrepancies and errors in printing, which I respectfully request may be corrected:

1. On page 26. In the first question asked by Mr. Loughridge, the date of an affidavit made by me in August last, is printed 22d of August, while the affidavit referred to, as the same is printed at the close of my testimony, bears date of 27th August. Since discovering the discrepancy, I have examined a copy of the affidavit in question, which I preserved, and find the date to be August 27, 1870.

2. On the same page. In reply to the question by Mr. Loughridge, "Say whether or not all the statements in that affidavit are true," I am reported as saying for part of my answer, "I could not state as to dates without comparing them. *The probability is that I did it before that time.*" What I intended to say was, that while I believed the printed affidavit handed me to be the same made by me in August last, and all the statements therein correct, yet I could not state as to the correctness of the dates of

transactions mentioned in the affidavit, as those dates are printed in the copy furnished me for examination, without comparing them with the records and files of the General Land Office, but had no doubt that the printed affidavit was a true copy of the original.

3. On the same page. The words "I mean letters transmitting patents to be countersigned by the recorder," in my answer to Mr. Eldridge's first question, were a *question* by Mr. Eldridge, and not a part of my answer. The succeeding portion of my answer as printed was the response to that question.

4. On the same page. In answer to the question by Mr. Loughridge, "Is the last page of the record in the same handwriting?" my reply is, "It is in the same handwriting." I meant to be understood as saying, I placed "ex'd" on the first page of the Panoche Grande record, and that the last page of said record is in the same handwriting as the rest of the same record, which was made by Mr. Stokes, and not by me.

5. On page 27. The sequence of question and answer would seem to imply that, in answer to the question by Mr. Eldridge, "When was that mark 'ex'd' put on?" I again testified that I recorded the Panoche form of patent myself, while the fact is that when Mr. Eldridge asked the question he presented to me the record of another patent; as will be seen by the succeeding portion of my testimony.

By Mr. ELDRIDGE:

Question. I find this question put to you by myself: "Can you find in that book another record in which the dates, signature, seal, and everything are filled in where the record is marked 'examined,' and yet where the patent was never issued?" The answer is, "I do not know, and cannot answer without looking through the book, whether there is any such record in this book or not." State whether you subsequently examined the book, and replied that you could find no other such record?—Answer. I did.

WASHINGTON, D. C., *January* 23, 1871.

JOSEPH S. WILSON, recalled at his own request, made the following statement in relation to his testimony before the committee January 16, 1871, as printed:

1. On page 31, in speaking of the time of my incumbency as Commissioner, I wish to say that my first incumbency as Acting Commissioner and Commissioner was about fifteen or sixteen months in 1859 and 1860, and the early part of 1861.

2. In answer to the question by the chairman, "Did you address Secretary Cox any communication about this patent before you received this letter which you have presented here?" I replied, "No, sir; not to my recollection."

I desire this understood as referring to any letter suggesting cancellation of the record; for on reflection and consultation of the record of letters I find we did address a letter (copy herewith) to the Secretary, under date 13th July, 1870, submitting an application of the attorney of McGarrahan for a copy of the record, with a proposed form of certificate of authentication to be attached to said copy in case the same should be furnished. The date of said letter submitting said application was given in the Secretary's letter of July 15, 1870, the original of which was handed to the chairman of the committee.

3. The further question was asked, "Did you communicate your wishes verbally?" The answer was, "No, sir; I never waited upon the Secretary in regard to any case, unless I was sent for."

I mean to say that I had no wishes in the matter, but not as saying that I made no explanations when called upon by the Secretary to do so. When so called upon, I gave such information and explanations as I was able to do from the knowledge I had of the matter.

Referring to the questions on page 31 of the printed copy of my testimony, I find that in answer to questions as to whether I knew whether a patent for Panoche Grande was ever presented for signature or not, I replied, "No, sir; only from my general conviction upon the subject. I do not know of any letter having been sent transmitting it." I desire to add that my conviction, from examination of the unexecuted draught of the patent and from the snspensive orders given, is that it never was signed.

5. In answer to the question, "And you do not know that it" (referring to the Panoche draught of patent) "was ever sealed?" my reply is, "I do not know that; I do not know that it was ever sealed or the contrary." I desire to be understood as saying, I do not know of my own personal knowledge; but from the fact that no seal is found on said draught, I do not believe one was ever placed there, and that I have no knowledge of any other draught of patent for said ranch having ever been prepared in the General Land Office.

6. On page 32 of the printed testimony, in answers to questions as to whether my signature to the certificate of cancellation of the record was placed there "without a personal knowledge of the facts," my answer as printed is, "Yes, sir." I desire to be understood in this as saying that, except as shown in my preceding testimony on this point, I had no personal knowledge of the matter, as the preparation of the form of

patent and record was not under my immediate personal supervision, but of the gentleman in charge of the division of private land claims.

7. Again, on page 32, in answer to the question, "Did you advise the Secretary to make that order?" my reply is, "No, sir; I never did." In this connection I desire to state that I never advised the Secretary to make any order in regard to the cancellation of the record; but in submitting the application for a certified copy, a form of certificate was submitted, as is shown in the letter to the Secretary of 13th July, hereinbefore referred to, and a copy of which, from the record, is herewith filed.

8. Further, on page 32, in reply to the question by Mr. Eldridge, "Then you put the names of the President and Secretary on before the patent was sent to the Secretary for signature?" I find my reply is, "That was the rule in Mr. Cox's administration," &c. What I intended to say was that that was the rule as I understood it, until within a few months of the close of Mr. Cox's administration, to wit, until the time of his order of 15th July, 1870, directing a discontinuance of the practice.

9. Also, in response to the last question on page 32, I say, "I do not know even the handwriting in which it" (the Panoche form of patent) "is recorded;" but since, on recurring to the record itself and comparison with many letters in his hand, I am satisfied it is in the handwriting of Mr. T. F. Stokes, then and now in the office.

"DEPARTMENT OF THE INTERIOR,
"*General Land Office, July* 13, 1870.

"SIR: I have the honor to submit herewith an application, dated the 11th instant, of George W. McGill, as attorney for Wm. McGarrahan, for a certified copy of the record of the Panoche Grande patent, said patent having never been signed by the President's secretary to sign land patents, or countersigned by the recorder of the General Land Office, and the seal of this office having never been affixed thereto, the record being therefore incomplete, wanting the name of the recorder or acting recorder; and respectfully request the ruling of the Department as to whether such copy should be furnished in view of the provisions of act of July 2, 1864, entitled 'An act prescribing the terms on which exemplifications shall be furnished by the General Land Office.' Statutes, vol. 13, p. 375. A copy of the proposed form of certificate to be attached to the said copy, in case the same shall be furnished, being herewith inclosed; also the original unexecuted patent and a copy of the granting clause in the record.

"I have the honor to be, very respectfully, your obedient servant,
"JOS. S. WILSON,
"*Commissioner.*

"Hon. J. D. COX, *Secretary of the Interior.*"

By the CHAIRMAN:

Question. You have said in explanation, as I understood you, that you only advised the Secretary when called on; state now, if you please, whether you were ever called on by Secretary Cox for an explanation in regard to this matter or for advice.—Answer. I made a verbal explanation to him; I gave no advice.

By Mr. MERCUR:

Q. You gave no verbal advice about what?—A. I mean about the cancellation of the record. I merely carried to him the draught of patent, which I obtained from the clerk who had the custody of it. It had not been in my custody at all; then we discussed the form in which the certificate should be appended. I proposed to have it made upon a separate sheet of paper, reciting, in accordance with the knowledge of the office, that the patent had never been signed, and append it to the record.

By Mr. PETERS:

Q. Your interview with the Secretary then was as to how the copy of this record, which you had been called on to furnish, should be made out?—A. Yes, sir.

By Mr. MERCUR:

Q. Who called on you for it?—A. This letter shows that it was McGarrahan's attorney.

By Mr. ELDRIDGE:

Q. In answer to a question by the chairman, "Did you address Secretary Cox any communication about this patent before you received the letter which you have presented here," you say, "No, sir; not to my recollection." He then asks, "Did you communicate your wishes verbally?" To which you reply, "No, sir; I never waited upon the Secretary in regard to any case, unless I was sent for." Yet, in the letter of Secretary Cox which you presented, dated July 15, 1870, he says, "You inform me that the patent was never signed by the President's secretary to sign land patents, or countersigned by the recorder of the General Land Office, and that the seal of your office was never affixed thereto." Did you so tell him?—A. I carried the patent to him and showed it

to him, and told him that, according to my judgment, or that according to my knowledge, it had never been signed or sealed.

Q. Did you have any knowledge on that subject which you have refused to give to this committee?—A. No; none whatever. It was just the traditional knowledge of the office; it had been talked about more or less for several years, that we never knew or heard of this patent having been signed. That is what I meant to be understood as meaning by knowledge on the subject.

Q. Had you ever seen the record which had been produced here, according to which the patent purports to have been signed by the President's secretary?—A. I do not think I had then.

Q. Had you never heard of that?—A. Of course. All patents made out are recorded.

Q. Had you never heard of that record which was produced here purporting that the patent had been signed by Mr. Stoddard, as the secretary of the President?—A. I can only say that I have no specific recollection of that patent having been signed.

Q. Had you never heard of that record?—A. Of course, I have heard of that record.

Q, Had you never heard of this record with the signature of Mr. Stoddard, as secretary of the late President attached, at the time you communicated with Secretary Cox?—A. I have no doubt I had. It was not my business to run round and hunt up every record in the Land Office and look at it, but it was then the rule that every patent should be recorded in advance of its being submitted for signature.

By the CHAIRMAN:

Q. State, if you know, when the straight lines were drawn across this authenticated copy now shown you, and which is printed on page 7 of this testimony?—A. I am unable to say.

Q. Do you know when these cross lines were drawn?—A. Nothing, personally; I only know from the testimony presented.

By Mr. LOUGHRIDGE:

Q. Was it the custom when patents were recorded, if they were not signed, to make any entry on the record?—A. If they were not signed, they were marked "canceled."

By Mr. BUTLER:

Q. Was there such a number of unexecuted patents recorded in your office that any custom prevailed in regard to cancellation?—A. I do not know the number, but that was the practice whenever such instances occurred.

Q. Was there such a number of unexecuted patents recorded as if they were executed that any practice had grown up in your office as to the manner of cancellation?—A. The practice was, whenever an unexecuted patent was recorded as if it had been executed, to mark it as canceled.

Q. Pardon me; besides this, do you know of one other that has been so recorded?—A. There are others so recorded that have not been delivered. I could not say that any special practice grew up in regard to the manner of cancellation.

Q. Pardon me; my question is, do you know of one patent unexecuted—leaving out this Panoche Grande—that has been recorded as executed?—A. I cannot say that I know of any particular one.

Q. Do you know of any such patent having been so recorded?—A. I cannot say that I know of any particular one, but the practice was ——

Q. If you do not know of one, how can you know that any practice has grown up?—A. I answer, that I do not know of any single one, but that in the progress of years there have been many; and that when such instances have occurred, the practice has been to write "canceled" on the record. You will understand that I could not, from memory, go back over a record of thirty or forty years and name individual cases.

By the CHAIRMAN:

Q. Can you give a single case?—A. I could undoubtedly find one.

By Mr. BUTLER:

Q. Will you do me the favor, if on looking over the records in your office you can find any unexecuted patent recorded as executed, and which has been canceled, to bring it before the committee?—A. I think I can do so.

WASHINGTON, D. C., *January* 23, 1871.

THOMAS F. STOKES, recalled at his own request, made the following statement:

I wish to say, that on page 23 of this printed evidence, the question is asked me, "Do you say now that you know there was ever a printed form for California special cases?" to which my answer is, "No, sir; only from the manner in which I generally did business. I have written a good many patents for private land claims, and this form of patent was printed." If I recollect correctly, when I made this answer, my hand lay upon the granting clause of a patent, and not upon the whole record. I did not intend to say that the whole record was printed, but that the granting clause was.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 25.

JURISDICTION OF THE COURT OF CLAIMS.

[To accompany bill H. R. No. 662.]

FEBRUARY 3, 1871.—Ordered to be printed.

Mr. WELKER, from the Committee on Private Land Claims, made the following

REPORT.

The Committee on Private Land Claims, to which was referred House bill No. 662, being a bill to confer jurisdiction on the Court of Claims to decide the claim of the city of Carondelet to the tract of land known as the "Jefferson Barracks, in Missouri," having had the same under consideration, make the following report:

That the city of Carondelet claims title to the tract of land known as "Jefferson Barracks," containing 1,702 acres, under a grant to said town by the Spanish government, before the acquisition of that territory by our Government. An action to recover the title to this tract was pending in the Court of Claims, but the Supreme Court of the United States decided that said court had not jurisdiction in the case, and the object of the bill before the committee is to confer that jurisdiction upon the Court of Claims.

The committee called upon the Commissioner of the General Land Office for a statement of the history of the claim, as well as a statement of the action of the Government in relation thereto, which he has furnished, and which is hereto appended as a part of this report.

It will be seen from the letter of the Commissioner that the decisions of the Government have been uniformly against this claim.

In addition to the decisions of the Government adversely to Carondelet, on the 27th of June, 1854, under full authority from the municipal officers, and in consideration that the Government would confirm Brown's survey of the common, which it did, the mayor made, executed, and delivered to the United States a deed conveying the entire title of the city to the property in controversy.

Congress is now asked to set this deed aside, and to allow the city to contest anew their title to the tract of land, on the ground that the deed was procured by fraud and undue means used by the Government to obtain it, and without consideration. There are several facts bearing upon this point worthy of consideration.

As early as 1826 the Government commenced the occupation of the tract of land for military purposes, and at that time some eighteen citizens, representing the city, undertook to convey the title of the city therein to the Government. This proved to be defective, those persons not having the legal authority to do so.

Afterward, in 1841, the Government, in form, declared it a military reservation under the claim that Spain had that right, and this Government, under Spanish law, had the same right as its successor and grantee.

From the first legislation in Congress, in 1812, to the date of the deed from the city to the Government in 1854, as above referred to, there was kept up a controversy between the city and the Government in relation to this property. The State of Missouri became more or less mixed up in this controversy, and several decisions of her courts were made in reference to congressional action in relation thereto.

On the 11th day of February, 1854, the United States district attorney for the State of Missouri gave a long written opinion on the question of title to this tract of land, in which he stated distinctly that the title of the city of Carondelet, under the acts of Congress of 1812 and 1831, was complete and perfect, and which opinion was filed in the General Land Office as a part of the case. Yet, in the face of this decision, the conveyance of the 27th day of June, 1854, by the city of Carondelet was made to the Government.

Between individuals this notice of right of property, if there had been no sufficient consideration, would in equity estop the grantor from claiming a rescission of the deed, on account of undue influence or fraud used by the grantee.

This property has been in the possession of the Government since 1826 to the present time, and valuable improvements have been made upon it. Sixteen years have elapsed since the title was finally settled by the conveyance of 1854, and the committee think that there do not appear to exist any such equities in behalf of the city of Carondelet as would justify it to recommend the opening up by the passage of this bill of the long controversy, so often disposed of and settled, and therefore recommend that the bill be laid upon the table.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
May 18, 1870.

SIR: In reply to your reference, on the 28th ultimo, of a letter from this office to Hon. G. S. Orth, dated March 28, 1870, relative to the "claim of the city of Carondelet," herewith returned, and your request for a history of the case, I have the honor to state, that said claim was presented to the old board of commissioners for the adjudication of titles to lands in the Missouri Territory, the report thereon by said board being printed in the American State Papers, (Gales & Seaton's edition, vol. 2, p. 672.) The claim was for 6,000 arpents of land, and as no record or evidence of a grant of the land by the legally constituted authorities could be found, nor any evidence of title beyond possession, and a decree of Lieutenant Governor Trudeau refusing to grant a portion of the lands claimed by the town to one Gamache, said decree stating "that the land demanded is within the limits of the land reserved for the purpose of furnishing wood for the village of Carondelet," the said claim was rejected by a majority of the board.

By virtue of long inhabitation, cultivation, and possession, however, it was adjudged by Congress that the title of the town was valid to the "town lots, village lots, common field lots, and commons in and adjoining" the said town, and the claim to the same was confirmed by act of June 13, 1812, (Statutes, vol. 2, p. 748.) Pursuant to the act of confirmation, an actual survey was made of the confirmed claim by Elias Rector, United States deputy surveyor. Under date of April 15, 1840, Surveyor General Milburn certified that the field notes of this survey were without date, but that "the survey was executed and the notes taken before the year 1817," and that said notes were, to his knowledge, "on file in the surveyor's office in the forepart of that year, and have always since that time been acted upon as the official notes and survey of said common as supposed to be confirmed by the act of Congress of the 13th June, 1812."

On the 26th May, 1824, Congress passed a supplemental act, (United States Statutes, vol. 4, p. 65,) requiring individual owners or claimants of lots confirmed by the act of June 13, 1812, to designate their lots within eighteen months after the passage of the act, and sustain their title before the recorder, in order that the surveyor general might be enabled to distinguish the private from the vacant lots, and directing the surveyor general "to survey and designate, so soon after the passage of this act as may be, the commons belonging to said towns and villages." Pursuant to this act, on the 10th of February, 1834, E. T. Langham, surveyor general, issued instructions to Jos. C. Brown,

deputy surveyor, sending him "a copy of the field notes of Rector's survey" aforesaid, and directing him "to retrace the lines and reëstablish the corners of said survey, connecting it with the lines and corners of adjoining surveys;" and in March, 1834, said resurvey was returned to the surveyor general's office, and found to differ from the original, as it made the western boundary of the claim 473.17 chains instead of 437.50 chains, as per the original survey by Rector. The resurvey by Brown was not approved, but remained suspended and in dispute for many years, being finally rejected by decision of the Secretary of the Interior under date of January 26, 1853, said decision being that the claim of the town of Carondelet, as presented to the old board of commissioners, having been for 6,000 arpents, and that claim having been confirmed as thus presented by the act of 1812, the town could not now justly claim a greater quantity of land, as the confirmation could not be construed to extend beyond the claims asserted.

During the pendency of the contest, on the 19th January, 1841, a reservation was made by the Secretary of War, for the use of the military, of a tract of land containing 1,702.04 acres within the limits of the Brown survey, but outside of the survey by Rector, said reservation being now known as the Jefferson Barracks military reservation

The tract of land outside of the military reservation, and exclusive of certain adjoining confirmed private claims within the outboundaries of the Brown survey, has been reserved to satisfy the claim of the corporation of Carondelet to 6,000 aspents, as originally presented to the board of commissioners, the survey of Rector not including this area. It was formerly held by this office that further legislation would be required to confirm the title of the corporation to any lands outside of the Rector survey, because said survey was recognized and unopposed by the citizens for over seventeen years; and there being no portion of the lands outside of its limits occupied, cultivated, or possessed by said citizens at the date of the act of 1812 confirming the title of the corporation, and said title prior to confirmation being based entirely upon occupation, cultivation, and possession. This opinion was virtually overruled, however, by the decision of the Department aforesaid, that the claim as confirmed was identical with the claim as presented to the board of commissioners, viz, embracing 6,000 aspents. Subtracting the united areas of the military reservation and of certain confirmed private claims within the outboundaries of the Brown survey from the total area of the said survey, the remainder so nearly approximates the quantity originally claimed, and decided to have been confirmed, that said survey has been adopted and approved by this office and the Department, with the aforesaid exceptions of the reservation and confirmed private claims, as fully satisfying the claim of the city of Carondelet.

The title of the corporation to the common lands below the town rested entirely upon equity until the passage of the confirmatory act of 1812, the equity having its foundation in the evident intention of the granting authority to reserve the land for the common use of the inhabitants of the place. The confirmatory act perfected the equitable title in law, but only to the extent of the claim presented for confirmation, viz, for 6,000 arpents of land in all, and with the proviso that such confirmation should not be construed to affect the titles of persons whose claims had been confirmed by the board of commissioners.

In order to induce an approval by the Department of Brown's survey of the commons, the city of Carondelet, by ordinance of her councils, approved June 27, 1854, authorized the mayor of said city to execute a deed of relinquishment in full to the United States of the lands embraced within the Jefferson Barracks reservation, which deed was executed the same date and transmitted by the mayor to this office.

The United States, as the successor of Spain, in assuming the obligations imposed by the Spanish laws governing the possession of landed property, succeeded also to the exemptions and privileges of the Spanish law, so far as such law mitigated the said obligations. It is a principle of Spanish law that the government has a right to its military sites and reserves, which cannot be invaded or impaired by concessions of land to private or corporate ownership. This is laid down with perfect distinctness in the case of Colin Mitchell *vs.* The United States, (15 Peters, p. 80.) Therefore, in case the land in question had been covered by an absolute grant, the Spanish authorities could legally have held the same for military uses in case it were found necessary for purposes of defense, for subsistence of troops, or for the erection of buildings for their shelter, and the Government of the United States, as the successor of the Spanish authorities, is entitled to the same privileges as against the claimant under the laws or usages of Spain.

In view, therefore, of the bare equity of the original Spanish title of the village of Carondelet; the limitation of the claim presented for confirmation to 6,000 arpents, than which no more could possibly be construed to have been confirmed; the recognition and acceptance of the Rector survey of less than that number of aspents, for more than seventeen years; the right of the United States to make and hold the reservation by virtue of her own laws and those of Spain; the deed of relinquishment by the city of Carondelet of all right, title, and interest in the lands covered by said reservation, executed by her mayor under authority of her councils, together with the fact that the matter has been finally settled by this Department, after a thorough and protracted

examination, running through many years, and with due consideration of the claims of equity as well as the demands of law, I respectfully submit that legislation providing for revival of the case before the judiciary would merely prolong a useless contest, without any probability whatever of its ever reaching a different final adjustment than that in which it now is resting, and that by the investment of such further authority the public interests might not be subserved.

I have the honor to be, very respectfully, your obedient servant,

JOS. S. WILSON,
Commissioner.

Hon. MARTIN WELKER,
Committee on Private Land Claims, House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
December 20, 1870.

SIR: Referring to my letter to you of May 18, 1870, relative to the claim of the city of Carondelet to the lands covered by the Jefferson Barracks military reservation, I respectfully invite your attention to the fact that it is found, upon further examination of the matter, that the said reservation is included within the exterior limits of the Rector survey of the Carondelet commons.

I have the honor to be, very respectfully, your obedient servant,

JOS. S. WILSON,
Commissioner.

Hon. MARTIN WELKER,
Committee on Private Land Claims, House of Representatives.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 26.

THOMAS TYNER.

FEBRUARY 3, 1871.—Ordered to be printed.

Mr. WELKER, from the Committee on Private Land Claims, made the following

REPORT.

The Committee on Private Land Claims, to whom was referred the petition of Thomas Tyner, having had the same under consideration, make the following report:

Thomas Tyner, in his petition, states that he is the father and father-in-law of John Neff, John L. Parker, James W. Carpenter, and William W. Tyner; that they filed preëmption papers with the register of the land office at Danville, in Illinois, on the 26th of September, 1855, for section 31, township 29, of range 10 east; that Samuel Dinwiddie also filed such preëmption papers at same office 21st day of November, 1855, for the southeast quarter of section 3, township 28, range 9; and that said parties received certificates of such preëmption from the register of said land office. These lands were the odd numbered section, reserved to the United States from the Illinois Central Railroad lands; that said parties made improvements of said lands by building cabins, breaking and planting ten acres of prairie on each quarter, and continued to live on them until December, 1856, when the lands were paid for and they received certificates from the register and receiver of said office, which entitled them to patents for the same. They continued to live upon the lands until the winter of 1857, when the Commissioner of the General Land Office gave notice that George W. Danforth had filed a claim in said office adverse to said claimants; that a hearing of Danforth's claim was had before the register and receiver at land office at Springfield, Illinois, where the Commissioner directed them to be heard; that said officers, on such hearing, decided in favor of said preëmptors; they then continued in possession of said lands until the fall of 1858, when the said Commissioner reversed the said decision of the register and receiver at Springfield, and awarded said lands to Danforth, except the northwest quarter of section 31, which was afterward patented to Carpenter; that Carpenter had to commence and prosecute suit to recover, at an expense of eight hundred dollars, which he succeeded in doing. He further states that about the time said preëmptions were made he was advised by the Commissioner of the General Land Office that the said odd number of said lands were subject to preëmption and entry, under the act of 1841, and made said preëmptions on that assurance; that after said decision against said claimants all the odd sections had been taken up by speculators and preëmptors, and the said parties have not received pay for said lands or their improvements; that the petitioner furnished all the money for entry and improvement of the land, which, with loss of time, &c., amounted to about $10,000, and that the lands

are now very valuable. The petitioner asks to be reimbursed for the money paid for the lands, and improvements made.

On examination in the General Land Office, the committee find that Parker, Tyner, Dinwiddie, and Carpenter located land warrants on each of their quarters, and that Neff made a cash entry of his quarter; that the location of said Parker, Tyner, and Dinwiddie, and the cash entry of Neff, were, in 1857 and 1858, canceled by the Commissioner of the General Land Office for non-compliance with the requirements of the preëmption law, and the warrants returned to the local office at Springfield, for delivery to the locators. The committee is also informed that the purchase money paid by Neff will be returned him, upon a proper application therefor through the local office. A patent was issued to Carpenter, for his quarter section, 10th January, 1862.

Under these circumstances, and with this statement of facts, the question arises, first, whether the decision of the Commissioner of the General Land Office, canceling the locations and entries aforesaid, shall be regarded as final? The committee think that the decision ought not to be disturbed by congressional action. The question was fairly made to the Commissioner, and having entire jurisdiction of the subject-matter, as between the Government and the claimants, it should be regarded as final.

The next question is, regarding the decision as final, shall the preemptors be paid by the Government for the improvements made on the land? It will be remembered that the warrants were returned, and the purchase money ready to be returned on proper application, without legislation.

These preëmptions are made by the parties on public lands at the risk of the preëmptors. The Government is to settle between conflicting claims, and cannot be held to pay parties for improvements made under a supposed preëmption right. Any other rule would involve the Government in endless controversies with private parties making such claims.

The committee is not informed, only by the statement of the petitioner, as to the extent of improvements or their value made upon the lands.

The view taken by the committee makes it unnecessary to make that inquiry further.

The committee therefore recommend that the petition be laid upon the table, and the committee be discharged from any further consideration thereof.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 27.

ETHAN RAY CLARKE AND SAMUEL WARD CLARKE.

FEBRUARY 3, 1871.—Ordered to be printed.

Mr. WELKER, from the Committee on Private Land Claims, made the following

REPORT.

The Committee on Private Land Claims, to whom was referred the petition of Ethan Ray Clarke and Samuel Ward Clarke, have had the same under consideration, and make the following report:

That the said petitioners state that Congress passed an act, approved March 4, 1868, confirming their title to a tract of land five miles square in Nassau County, Florida, to them as assignees and successors of one John Underwood, who claimed to be a grantee of said tract from the government of Spain before the acquisition of Florida; that after said confirmation they found that portions of said land had been devoted to schools and railroad corporations under the authority of Government; that many settlers had located upon the same, and most of the valuable timber had been cut off and destroyed, greatly lessening the value of the land; that it would be a great hardship to turn off such settlers, and, besides, the petitioners allege they are too poor to litigate the title with the occupants. They therefore ask Congress to grant them land warrants to the extent of 16,000 acres, the estimated quantity in said original grant, with authority to locate the same upon any of the public lands of the Government, subject to entry by them or their assigns, they releasing to the Government their claim to said tract in Florida.

The act of confirmation provides as follows:

> That nothing herein contained shall operate to the prejudice of any claim which may be set up to said land by reason of any sale thereof, * * or of any person or persons who may be entitled to preëmption rights under any existing laws of the United States.

Affidavits have been presented to the committee showing that during the rebellion the timber on said tract of land, which was very valuable before the war, was cut off and destroyed, rendering the land much less valuable; and that numbers of settlers are now on the land, claiming title under the United States.

The committee do not think the Government bound to make good the damages the petitioners may have sustained by the cutting of the timber from the land; nor do they think the Government should, in advance of any legal investigation as to the title of the occupants of the land, afford the petitioners relief to the extent even of the quantity of land in possession of settlers; much less should the Government give them public lands for the whole quantity of the grant. No such equities appear to the committee as would call for any action of Congress upon the subject.

They therefore recommend that the petition be laid upon the table.

41ST CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
3d Session. } { No. 28.

EXPULSION OF CADETS FROM MILITARY ACADEMY.

FEBRUARY 7, 1871.—Ordered to be printed and recommitted to the Committee on Military Affairs.

Mr. ASPER, from the Committee on Military Affairs, under the resolution of the House authorizing an investigation into the circumstances of the expulsion of Cadets Baird, Flickinger, and Barnes, and their subsequent enforced resignation, with the recommendations of the committee on the subject calling for action on the part of the House made the following

REPORT:

The Committee on Military Affairs, instructed by resolution passed on the 12th day of January, which is as follows—

Resolved, That the Committee on Military Affairs be empowered to send for persons and papers to investigate said matters of the expulsion and subsequent enforced resignation of Cadets Baird, Flickinger, and Barnes, and to report the facts to the House, with such recommendation, by bill or otherwise, as the facts, in their opinion, may warrant, and the committee shall have leave to report at any time—

Having taken the same into consideration, did delay action on the same until the 23d day of January, by request of the Secretary of War, on account of the semi-annual examinations taking place in the academy on the first days of the month; and on that day the committee resolved to ask the House of Representatives to so modify the order as to authorize the sending of a sub-committee to West Point to make the investigation on the ground, and to take such testimony as could be found there; and on the 24th day of January such modification was asked for by the chairman of the committee, which was granted, and the committee was so authorized.

Whereupon Hon. Joel F. Asper, Hon. Jasper Packard, and Hon. H. W. Slocum, of the Committee on Military Affairs, were appointed the sub-committee, and fully charged with the burden of said investigation; and in pursuance of the said resolution, the amendment, and their appointment, did proceed to West Point on the 27th day of January, and there inquired into the circumstances of the expulsion of Cadets Baird, Flickinger, and Barnes, and then proceeded to take the testimony of the superintendent and commandant, together with that of several officers and cadets of the academy, which, together with the documentary evidence in the case, having first been submitted to the Committee on Military Affairs, is now reported to the House as a part of the report of the committee, required under said resolution.

Your committee have found no great difficulty in ascertaining the facts in the case, as the War Department and the officers and cadets at the academy have promptly placed at the disposal of the committee every means and facility in their power to enable them to make a thorough and ample investigation.

Your committee have found and report the facts in the case to be as follows:

That the 2d day of January, 1871, was observed as a holiday at West

Point and in the academy, as New Year day, and for that day discipline was somewhat relaxed, nor was duty or study exacted of the cadets. In the evening the first and second classes had permission to have a hop, so called; the members of the third class were authorized to visit in quarters, while the fourth class had no privileges extended to them, and were required to observe their usual evening study hours, as the next day their examinations were to commence.

This restriction did not seem to be fully understood by all the members of said class; and this uncertainty, together with the associations and festivities of the day, were but temptations to the young cadets for taking some unusual license, which under other circumstances might never have been thought of or attempted.

During the day, Cadet Baird went to Highland Falls, and while there obtained some spirituous liquor, and it appears was more or less under the influence of liquor. After "call to quarters," which is from evening to half after nine o'clock, and is devoted to study in the Academy, Cadet Baird left his quarters, proceeded to the sink, where he changed his uniform suit for a citizen's dress, and again went to Highland Falls, without permission, in company with a member of his class, and at the Falls these cadets met two or three other cadets of the second and third classes. Previous to going, Cadet Baird had some conversation with his room-mate, Cadet Flickinger, about making his absence all right if he went away in the evening; but on going out he said nothing about making it "all right" with the sentinel.

The sentinel made his usual rounds in the fore part of the evening, when Flickinger reported "all right," which, under the police regulations of the commandant, meant "present," or, if absent, that such absence was for a necessary purpose and not to exceed ten minutes; that on the second round the same report was made. The sentinel believed that it was not all right, and asked the corporal of the guard what his duty was in the premises, and he was instructed that if the cadet reported all right, it was his duty to so report; and if the report was untrue, that the responsibility would then rest properly on the cadet who had made the report; that the corporal and sergeant of the guard went to the room of Baird and Flickinger to investigate the matter, and they were in the room talking with Flickinger at the time the sentinel made his second round.

Baird was absent until about half after nine o'clock, and returned to his quarters; and then was advised by some of his friends to make an explanation in the morning, which he had resolved to do. Barnes left his quarters the same evening, reported "all right" to the sentry as he passed out, went to the rear of the room occupied by Baird and Flickinger, crawled in at the window, and was found there during the evening. It does not appear precisely at what time in the evening this occurred, but it is clear that he had nothing whatever to do with the covering up the absence of Cadet Baird. His offense was the report, made to the sentinel, which became false by his subsequently visiting clandestinely at the room of Cadets Baird and Flickinger.

On the morning of the 3d day of January, the officer of the day and the sergeant of the guard made report of these facts to Lieutenant Colonel Upton, commandant of cadets at the Military Academy, who immediately made inquiry in respect to the same, and believing the offenses were of such a serious nature as to require an investigation, ordered Cadets Baird, Flickinger, and Barnes under arrest.

Cadet Baird had not carried out his conceived intention of making explanation at the time of his arrest; but afterward he sent a class-

mate to the first class to have one of their number come and assist him in reference to making up his explanation, and also to assist him in his defense on trial before a court-martial, before which he already knew or believed that he would be ordered; but no one came to his assistance.

On the same day the following dispatch was sent to General Schriver at Washington, the inspector of the academy, viz:

WEST POINT, NEW YORK, *January* 3.

General E. SCHRIVER, *Inspector, Washington:*

Want authority to bring Cadets Baird, Flickinger, and Barnes before the general court-martial which convenes to-morrow.

T. G. PITCHER, *Superintendent.*

Whether the authority was given as asked does not appear to the committee, but it is presumed that the same was granted. At parade, about four and a half o'clock in the evening, the following special orders was read to the Corps of Cadets, viz:

[Special Orders No. 1.]

HEADQUARTERS CORPS CADETS,
West Point, New York, January 3, 1871.

I. Cadet Baird is hereby placed in arrest, and confined to his quarters.

Charge. Absent from quarters without authority during all inspections of sentinels, from call to quarters to tattoo in the evening of the 2d instant.

II. Cadets Barnes and Flickinger are hereby placed in arrest, and confined to their quarters.

Charge. Conduct unbecoming an officer and a gentleman; making false report to sentinel on the 2d instant.

By order of Lieutenant Colonel E. Upton.

EDGAR G. STEEVER, JR.,
Cadet Lieutenant and Adjutant.

This was the condition of affairs as to the Cadets Baird, Flickinger, and Barnes, up to tattoo and after, on the evening of the 3d of January.

After tattoo the sentinels are relieved, and no guard is kept on the watch from tattoo to reveille. The officer of the day goes off duty for the night about half after ten o'clock. The officer in charge, who is an Army officer, and one of the instructors in tactics, visits quarters irregularly, after the officer of the day retires, to make the inspection. These visits are made about once a week, but not on regular nights. No such visit was made on this night.

The alleged offenses of these three cadets, and their subsequent arrest, occasioned considerable comment during the day, and some time in the day, but before two o'clock in the afternoon, the first class held a meeting at the room of Cadet Nave, and consulted about the matter. This meeting is alleged by them to have been spontaneous, without call, nor was an organization effected. The deliberations of this meeting were cut short by the arrival of the recitation hour. In the evening, after parade, and after the orders for arrest of the three cadets with the charges against each had been read, another meeting of the first class was held. This meeting was organized by choosing a chairman, who was Cadet Hoag; and it was finally decided that the class "should put them" (the three cadets) "off that night," and to effect it the whole class was divided into three committees. Between eleven and twelve o'clock at night they assembled, about thirty-seven in all, and proceeded to the rooms of the cadets. One squad went to the room of Cadets Baird and Flickinger, and then to the room of Cadet Barnes, while another squad kept watch outside. The party consisting of Cadet Davis, a cadet captain, in whose company Flickinger and Baird were enrolled, Cadet Grant, Cadet Roe, and others, went into the room of these two Cadets. Cadet Davis himself aroused Cadet Baird, and Cadet Grant was

seen in Cadet Flickinger's alcove. They were aroused, and told to get up and dress in citizens' clothes, as they had lied, and must leave the Point. The charge Baird denied, but the denial was met by the statement, "No matter; you must leave." The dressing was hurriedly done, Baird leaving his watch hanging in his alcove, and his effects scattered around. Flickinger did not have citizens' clothes sufficient to dress him, and a coat and other articles were given him. After being hurriedly dressed, they were taken into the area, and then into Cadet Hoag's room, where they were met by the party who had been sent for Cadet Barnes, and then they immediately started, in a hurried manner, to the rear of the grounds. As they passed the mess building, another squad was found, who reported "all right," and then all moved on together.

The first class was alleged to have all been engaged in this matter, with four or five exceptions. No personal violence was used; but Cadets Brush and others had hold of Cadet Baird. After leaving the buildings, there was much bad talking and threatening, and menaces, directed to these boys. On arriving at cadet limits, near old Fort Putnam, a halt was called, money was given them, inquiry was made as to where their trunks were to be sent, and they were told that they had lied; that the first class was doing this, and that was the way that the first class treated men who lied; that they should now go and never return; that if they did return, they would be tarred and feathered. Other threats were used. The cadets, when let go, ran away, and continued at full speed until beyond the reach of missiles. Nothing was thrown after them, nor does it appear that any of the cadets had clubs or stones in their hands. The first class then proceeded to their quarters quietly, being absent therefrom about twenty to twenty-five minutes. Nothing was observed unusual by any officer or other person at the post, nor had any officer either suspicion or anticipation of the occurrence.

The three cadets, Baird, Barnes, and Flickinger, went to Highland Falls, where they obtained beds about one o'clock on the morning of the 4th day of January. On this day (the 4th) they found themselves ill clad for the inclement season, in a strange place, without friends, as they supposed, and suffering from fear of violence. Baird was nineteen years of age, a delicate-looking boy, while Barnes and Flickinger were only about seventeen years of age.

They first wrote a letter to the first class, asking for their clothing, for Baird's watch, and other things. This was sent by a boy. Some clothing was returned, with Baird's watch, and with them a letter, signed "First class," and again telling them to give the addresses to which their trunks could be sent, and reiterating the threat that they must never return. After further deliberation, Baird and Flickinger concluded to go to Poughkeepsie, and Barnes to Jersey City, where he has friends, and await events.

At Poughkeepsie Baird and Flickinger fell in with a former classmate by the name of Andrews, who took them to his father's house, when, on deliberation, they concluded to and did write a statement of the affair to the superintendent, which was signed by both. The letter is a part of the evidence. Baird wrote another letter to Commandant Upton, also in evidence. These letters bear date the 5th day of January, and seem to have been written under the supposition that they would not be permitted to return; that they wished to be cleared from any charge of desertion, and be permitted to resign or be dismissed. On receipt of these letters at the post, the commandant telegraphed Baird:

> Remain at Poughkeepsie until you receive a letter advising you what to do.
>
> E. UPTON.

On the 6th, Lieutenant Starring was sent for Cadets Baird and Flickinger, to take them back to the post. He readily found them, and returned with them about four o'clock in the afternoon. They were taken to their quarters, where they were ordered to remain; were relieved from all duty, but to be held in arrest; to go to their mess under the cadet guard, and not to leave their rooms unless sent for. Very soon Commandant Upton sent for them, talked with them, and told them that he could obtain strong evidence against them; that they could take their choice—stand trial or resign. He also advised them, on their inquiry, that under the circumstances, the best thing they could do would be to resign, and he would send up their resignations with the charges against them. They were returned to their room, and immediately sent for resignation blanks, signed and sent them in, and on the same day they were each forwarded, attached to the charges and specifications preferred against each, with the following indorsements:

HEADQUARTERS U. S. CORPS CADETS,
West Point, N. Y., January 6, 1871.

Respectfully forwarded, approved. Charges have been preferred against Cadet William Baird of such a nature as to insure, beyond question, his dishonorable dismissal. I recommend the immediate acceptance of his resignation, which is freely tendered, with a view to avoid publicity. The consent of parents to the resignation of cadets should be waived in this case, as to require it would occasion useless mortification and delay.

E. UPTON,
Lieutenant Colonel First U. S. Artillery, Commandant of Cadets.

UNITED STATES MILITARY ACADEMY,
West Point, January 6, 1871.

Respectfully forwarded, for the reasons stated in the indorsement of the commandant of cadets. Would suggest that Cadet Baird's resignation be accepted at once.

T. G. PITCHER,
Superintendent Military Academy.

The indorsements on Cadet Flickinger's resignation are the same, with the change of name only.

The following is an official copy of the order accepting these resignations:

[Orders No. 1.]

WAR DEPARTMENT, OFFICE OF THE INSPECTOR
OF THE MILITARY ACADEMY,
Washington, January 9, 1871.

[*Extract.*]

* * The resignations of Cadets William Baird and Enoch H. Flickinger, United States Military Academy, have been accepted by the Secretary of War.

* * * * * * *

E. SCHRIVER,
Brevet Major General, Inspector.

SUPERINTEDENT MILITARY ACADEMY.

A true copy:

E. C. BOYNTON,
Brevet Major and Adjutant.

Cadet Barnes was returned to the academy on the 10th of January. Exactly how this was done the committee did not learn, but on the morning of the 11th of January he was taken up on the morning report, "rejoined from absence without leave." On that day he was examined before the academic board, and reported to the Secretary of War for dismissal, for deficiency; and on the 13th day of January, 1871, by Special Orders No. 2, War Department, "On the recommendation of the academic board, Cadet McDowel Edgar Barnes, United States Mili-

tary Academy, declared deficient in studies at the recent examination is discharged the service of the United States."

These cadets were dropped from the rolls of the academy—the two former by reason of resignation, and Cadet Barnes by reason of dismissal, for deficiency; and they left the academy promptly on being relieved by orders.

On the morning of the 4th of January, Cadet Captain Davis reported, with his cadet sergeant, on his official morning report, that Cadets Baird and Flickinger were "absent without leave." This is certified on honor; and as he had charge of these cadets in a military sense, should have reported the facts, he being the cadet who waked up Baird and assisted to send him off. Officer of the day, Mott, relieved this morning on guard mounting, reported to the commandant of cadets the absence of the three cadets under arrest at roll-call, and he was immediately dispatched to learn the reasons why. He returned, and reported their rooms empty, in confusion, but could learn nothing respecting them. This caused further inquiry and expressions of astonishment. The commandant immediately reported to the superintendent in person and officially, and the superintendent immediately forwarded the report to the War Department. It is as follows:

HEADQUARTERS UNITED STATES CADET CORPS,
West Point, N. Y., January 4, 1871.

SIR: I have the honor to report that Cadets Barnes, Baird, and Flickinger, placed in arrest yesterday, were absent from their quarters at reveille this morning, and still remain absent. As they have broken their arrests, I can only presume they have deserted.

I am, sir, your obedient servant,

E. UPTON,
Lieutenant Colonel First Artillery, Commandant of Cadets.

Captain E. C. BOYNTON,
Adjutant United States Military Academy.

Indorsed: Date, name of officer, and substance, and further as follows:

UNITED STATES MILITARY ACADEMY,
West Point, N. Y., January 4, 1871.

Respectfully forwarded for the information of the inspector of the Military Academy.

T. G. PITCHER,
Brevet Brigadier General, Superintendent Military Academy.

During the day of the 4th of January, Cadet James R. Wasson and Cadet Russell, of the first class, went to the commandant and told him what they had done with the three cadets, and that they were not absent voluntarily without leave; that the first class had sent them away from the post, and then and there undertook to justify their conduct, upon the ground that the honor of the corps was suffering; that these cadets had lied they were satisfied, and they had taken the responsibility of doing the act.

This was about eleven or twelve o'clock in the day, but not early enough to prevent the foregoing report, charging the cadets with desertion, from going on to the War Department.

The commandant immediately reported the facts to the superintendent, but not in writing; but no official report was made to the War Department by the superintendent until the 11th of January.

On the 4th day of January, Captain Clark, acting as commandant, sent for Cadets Wasson and Russell, and they were directed by him to "present a written statement of the transaction, and anything we [they] wished to present in regard to it;" and at the request of Cadets Wasson and Russell, Cadet Davis was added to the committee. These cadets

proceeded to discharge this duty, drew up a statement, and were getting signatures thereto, when the class became dissatisfied with the matter, called a meeting, and appointed Cadets Ulysses G. White, Vinton A. Godard, and George F. Chase a committee to make the statement. They drew up a statement in the nature of a justification, which bears date the 5th day of January. This paper bears no indorsement, and was handed to the superintendent without indorsement. It was probably handed to the commandant on the day it bears date, and by him handed to the superintendent. It is found among the files of the War Department, attached to the superintendent's official report, bearing date January 11, and by him referred to.

On the 10th of January, the day before this report was made, special orders were issued, affixing such punishment upon the first class as the superintendent believed he could affix, which was confining them to the Plain, and taking away their usual privileges.

In his report of the occurrence, the superintendent says:

"My order of yesterday will explain what action I have taken in the matter. The gravity of the offense was not fully understood until some days after the occurrence. My constant attention upon the examinations will, I trust, in a measure excuse my tardy action in this matter.

"I am, respectfully, your obedient servant,

"T. G. PITCHER,

"*Superintendent.*"

Nothing further was done with the offenders. No arrests were made, no charges preferred, nor has any action been taken by the War Department.

The cadets of the first class engaged in this transaction have been kept on duty as before, have charge of the cadets in the lower classes as captains and lieutenants, and are daily engaged in assisting to train and discipline the corps.

The class, with four exceptions, were engaged in this transaction. The exceptions are Cadet Lieutenant Mott, who was officer of the day, Cadet Pardee, Cadet Wheeler, and Cadet Mansfield. All the others, thirty-seven in number, were engaged in the affair.

It is proper to add here that Cadet Baird bore a good reputation up to this offense; and that Flickinger also had a good standing.

The reasons which induced the sudden outburst of mob spirit in the first class seem to be either incomprehensible, or spring from some cause which your committee have been unable to fathom. Your committee examined several of the officers on duty at the post, but the only reason they could assign was, that the authorities there had not been properly supported in their efforts to preserve order and an enforcement of discipline. The sum of the testimony on this point was, that discipline at the Point was as good, or rather better, for the last six months than formerly. And if this be true, its former condition must have been deplorable. The officers immediately in charge of the first class join in the report that this class have been more than usually amenable to discipline; have had a high standing for good and orderly conduct.

The officers of the academy knew nothing of the transaction, nor have they approved or in any way indorsed it. "In a military point of view" they have utterly condemned it. They, however, speak of the "motive of the first class as good." In Special Orders No. 3, Military Academy, issued by General Pitcher, of the date of January 10, in which notice was first taken of the offense of the first class, he says:

While conceding that the motive which animated the members of the first class

originated from a praiseworthy source, no words can express too forcibly the disapproval by the superintendent of the assumption of power by cadets, until now unknown to those who organized and for sixty-eight years have governed the Military Academy.

Your committee have made a statement of all the facts they could gather, and they believe them full enough for a proper understanding of the transaction, and report them to the House, in obedience to the resolution. And it now remains to make such recommendation as they believe the facts will demand.

1. As to the officers, the committee believe that the superintendent of the academy and the commandant of the corps of cadets failed to properly appreciate the gravity of the offense committed by the first class, and showed a disposition to avoid a proper investigation and punishment of the gross breach of discipline and violation of regulations committed by the class. In their urgent recommendations for the immediate acceptance of the resignations of Cadets Baird and Flickinger, they disregarded the following regulation of the academy, (See Regulations of United States Military Academy, page 49 :)

A cadet's resignation, if he be under age, must be accompanied by a written consent of his parent or guardian. (Paragraph 165.)

Their conduct in advising these cadets to resign before any notice had been taken of, or investigation ordered into, the outrage of which they had been the victims, is censurable. Their failure to take prompt action for the punishment of the offending class, by arresting the guilty cadets and preferring charges against them for a court-martial; their official expression of a belief that the class were actuated by "good motives" in their unlawful action; and their continuance of the first class on duty as cadet officers to enforce the discipline of the academy, amount, in the opinion of the committee, to a virtual sanction of the riotous proceedings of the class, and an encouragement of the repetition of the offense. The position thus assumed by the officers is subversive of the discipline of the academy. It will, if maintained, place the government of the institution in the hands of the first class whenever they see fit to constitute themselves the judges of the delinquencies of the members of the other classes, and will thus destroy all subordination and respect for law in the corps of cadets. The conduct of the officers shows a lack of comprehension of the principles of military discipline surprising in officers of long and honorable service in the Army. The only thing that can be said in extenuation of their action is the fact that their efforts to maintain discipline heretofore seem not to have been properly sustained by the authorities at Washington, and that sentences of courts-martial, providing for the dismissal of cadets, have almost invariably been remitted.

2. As to the case of the three cadets, Baird, Flickinger, and Barnes:

Your committee believe that they were guilty of serious offenses against the regulations and discipline of the academy; but from the circumstances and the character of the boys, they do not believe them destitute of either manliness or integrity. The two, Baird and Flickinger, freely admitted their offenses. It does not appear that Barnes has said anything on the subject of the transaction. Your committee believe that the publicity given this affair, and their enforced resignations, will be a severe punishment; and they should be restored, to take effect in June next. This will cause them a loss of a year in their course, and will be a sufficient guarantee that they will not again offend in a like manner.

The committee would make no exception as to Barnes. His exami-

nation, under the circumstances, and deficiency as the result thereof, should not be taken as irrevocable, and he should be also restored.

Your committee therefore recommend that Cadets Baird, Flickinger, and Barnes be restored, to enter the academy on the commencement of the next academic year.

3. As to the offense of the first class:

Your committee, in making a recommendation respecting this class, realize the importance of the subject. This class committed a grave offense. None graver can be committed by an officer or soldier. Such action on the part of the cadets is subversive of all discipline in the academy, and must tend to destroy its usefulness, and cause a vicious influence to emanate therefrom. The offense is the more grave because these cadets have been under military discipline for nearly four years, and would soon graduate to enter the Army, to assist, so far as the Army may, to protect the lives and property of the citizens of the country. These cadets could not have been ignorant of their duties, nor of the regulations under which they are governed. These they have made their study since they have been connected with the academy. They themselves assist, as cadet officers, to enforce discipline in the academy, and to bring to punishment those who violate the academic regulations. Further, they could not have overlooked or forgotten the academic regulations, which contain the following paragraphs, found on pp. 42 and 43 of the Book of Regulations:

124. All combinations, under any pretext whatever, are strictly prohibited. Any cadet who, in concert with others, shall adopt any measure, under pretense of procuring a redress of grievances, or sign any paper, or enter into any written or verbal agreement with a view of violating or evading any regulation of the academy, or do any act contrary to the rules of good order and subordination, or who shall endeavor to persuade others to do the same, shall be dismissed the service.

Again:

135. No cadet shall, without permission, visit during the hours of study, or between tattoo and reveille, or be unnecessarily absent from his room or tent at those times.

The facts in this case show clearly, not only combination and agreement, but that the class did such acts as were directly in violation of the rules of good order and subordination, so pointedly described in paragraph 124, the penalty for a violation of which is dismissal. If this offense is overlooked, how can good order, subordination, and discipline be kept up in the lower classes in the academy?

Your committee, therefore, believe that the cadets engaged in the disgraceful affair should be severely punished, and that any slight punishment will have the effect to aggravate the evil instead of proving a remedy.

Four years ago a part of the first class took an innocent cadet into their own hands, branded "thief" upon him, and drummed him from the Point. The instigators of the offense were tried by courts-martial, convicted, and sentenced to be dismissed; but on application to the authorities at Washington the sentence was remitted, and this recent outrage must be regarded as in part the fruit of the leniency then shown.

The committee are of the opinion that the members of the first class who were the instigators and leaders in the affair of the 3d of January should be at once dismissed from the academy, and that all the other members of the class who participated in the affair should be tried by a general court-martial and subjected to punishment. They therefore recommend the adoption by the House of the accompanying resolutions:

1. *Resolved*, That the House of Representatives recommend to the Secretary of War to restore Cadets Baird, Flickinger, and Barnes to

the Military Academy at West Point, to take effect with the beginning of the next academic year; and then permit them to proceed with the fourth class without further punishment for the offenses heretofore committed by them.

2. *Resolved*, That the House of Representatives recommend that the Secretary of War convene a court of inquiry for the purpose of ascertaining what members of the first class were instigators and leaders in the affair of January 3 at the United States Military Academy, and that such leaders and instigators be at once dismissed from the Military Academy, and the remaining members of the class engaged in the affair be punished at the discretion of a general court-martial to be convened for their trial.

DOCUMENTARY EVIDENCE.

COPIES OF THE PAPERS FROM THE WAR DEPARTMENT IN EVIDENCE BEFORE THE COMMITTEE ON MILITARY AFFAIRS, IN THE MATTER OF THE INVESTIGATION AS TO CADETS BAIRD, FLICKINGER, AND BARNES.

[Dispatch.]

WEST POINT, N. Y., *January* 3.

General E. SCHRIVER, *Inspector, Washington:*

Want authority to bring Cadets Baird, Flickinger, and Barnes before the general court-martial which convenes to-morrow.

T. G. PITCHER, *Superintendent.*

Report as to desertion.

U. S. MILITARY ACADEMY, WEST POINT, N. Y., *January* 4, 1871.

SIR: I yesterday asked authority, by telegraph, to bring before the general court-martial ordered to convene this day Cadets Baird, Flickinger, and Barnes, all of the fourth class. The former was charged with being absent from quarters after inspection, &c., and the last two for making false reports to sentinels. Those cadets were all absent at reveille this a. m., and are supposed to have deserted. Cadet Barnes, you may recollect, was tried for a similar offense before the last general court-martial, but was acquitted.

I am, very respectfully, your obedient servant,

T. G. PITCHER,
Superintendent Military Academy.

The INSPECTOR *of the U. S. Military Academy, Washington, D. C.*

Commandant's report.

HEADQUARTERS U. S. CADET CORPS,
West Point, New York, January 4, 1871.

SIR: I have the honor to report that Cadets Barnes, Baird, and Flickinger, placed in arrest yesterday, were absent from their quarters at reveille this morning, and still remain absent.

As they have broken their arrest, I can only presume they have deserted.

I am, sir, very respectfully, your obedient servant,

E. UPTON,
Lieut. Col. First Artillery, Commandant of Cadets.

Capt. E. C. BOYNTON,
Adjutant U. S. Military Academy.

[Indorsed.]

U. S. MILITARY ACADEMY, WEST POINT *January* 4, 1871.

Respectfully forwarded for the information of the Inspector of the Military Academy.

T. G. PITCHER,
Brevet Brig. General, Superintendent.

CHARGES AND RESIGNATION OF CADET BAIRD, WITH INDORSEMENTS THEREON.

Charges and Specifications preferred against Cadet William Baird, U. S. Military Academy.

CHARGE I. Violation of 114th paragraph Regulations U. S. Military Academy.

Specification. In this, that he, Cadet William Baird, of the U. S. Military Academy, was under the influence of intoxicating liquor between the hours of 5 o'clock and 10 o'clock, on the evening of the 2d of January, 1871.

All this at or near West Point, New York, on or about the date above specified.

CHARGE II. Conduct to the prejudice of good order and military discipline.

Specification. In this, that he, Cadet William Baird, of the U. S. Military Academy, did, without authority, absent himself from his room or quarters in Cadet Barracks, at or near 6.30 p. m. on the evening of January 2, 1871, and did remain so absent until at or near 9.30 p. m. the same evening.

All this at or near West Point, New York, on or about the date above specified.

CHARGE III. Conduct unbecoming an officer and a gentleman.

Specification. In this, that he, Cadet William Baird, United States Military Academy, being about to leave his quarters for an unauthorized purpose, did agree and advise with his room-mate, Cadet Enoch H. Flickinger, that he, the said Enoch H. Flickinger, should report the condition of their room as "all right" to the sentinels who should inspect it, thereby intending to deceive the said sentinels and shield him, the said Cadet William Baird, United States Military Academy, from the consequences of his unauthorized absence.

All this at or near West Point, New York, on or about the date above specified.

E. UPTON,
Lt. Col. First Artillery, Commandant Cadets, officer preferring charges.

Witnesses to first charge:
Cadet E. H. FLICKINGER.
Cadet R. B. WATKINS.
Cadet C. C. HEWITT.
Cadet U. S. GLOVER.

Witness to second charge:
Cadet C. L. DALLAM.

Witnesses to third charge:
Cadet C. L. DALLAM.
Cadet F. U. SIBLEY.
Cadet Q. O'M. GILLMORE.

[Indorsed.]

Approved.

T. G. PITCHER,
Superintendent Military Academy.

WEST POINT, N. Y., *January* 5, 1871.

SIR: I have the honor to tender the resignation of my appointment of cadet in the service of the United States.

I am, sir, very respectfully, your obedient servant,

WILLIAM BAIRD,
Cadet United States Military Academy.

Hon. SECRETARY OF WAR.

[Indorsed.]

HEADQUARTERS U. S. CORPS OF CADETS,
West Point, January 6, 1871.

Respectfully forwarded, approved. Charges have been preferred against Cadet William Baird of such a nature as to insure beyond question his dishonorable dismissal. I recommend the immediate acceptance of his resignation, which is freely tendered, with a view to avoid publicity. The consent of parents to the resignation of cadets should be waived in this case, as to require it would occasion useless mortification and delay.

E. UPTON,
Lieut. Col. First U. S. Artillery, Commandant of Cadets.

U. S. MILITARY ACADEMY, WEST POINT,
January 6, 1871.

Respectfully forwarded for the reasons stated in the indorsement of the Commandant of Cadets. Would suggest that Cadet Baird's resignation be accepted at once.

T. G. PITCHER,
Superintendent Military Academy.

Dispatches annexed:

[By telegraph.]

SAN ANTONIO, TEXAS, *January* 10, 1871.

To Major General ED. SCHRIVER, *Inspector U. S. Army:*

What is the trouble about my son at West Point? Please do the best you can in my interest, and Mrs. Baird will start North immediately. My duties will keep me here five months.

A. BAIRD.

WESTERN UNION TELEGRAPH COMPANY,
San Antonio, Texas, January 10, 1871.

General ED. SHRIVER, *Inspector General U. S. Army:*

Ask the Secretary of War to have my son tried, and not accept resignation.

A. BAIRD.

COPIES OF CHARGES AND RESIGNATION AND INDORSEMENT IN CASE OF ENOCH H. FLICKINGER.

Charge and specifications preferred against Cadet Enoch H. Flickinger, U. S. Military Academy.

CHARGE. Conduct unbecoming an officer and a gentleman.

Specification 1. In this, that he, Cadet Enoch H. Flickinger, United States Military Academy, did make an official report to the sentinel of the first relief, in charge of the division, that "it was all right" for his room, or words to that effect, which statement was false, his room-mate, Cadet William Baird, being absent without authority from said room at the time of the making of said report.

All this at or near West Point, New York, at or about the hour of 6.30 p. m. on or about the 2d day of January, 1871.

Specification 2. In this, that he, Cadet Enoch H. Flickinger, United States Military Academy, having reported "all right" to the sentinel of the first relief, at his inspection, about 6.30 p. m., his room-mate being absent from his quarters, did repeat said report of "all right" to the sentinel of the second relief, at or about the hour of 7.35 p. m., his room-mate being still absent from his quarters, and not having returned since the inspection of the sentinel of the first relief, and did fail to correct said report until directed to do so by the officer of the guard.

All this at or near West Point, New York, on or about the 2d day of January, 1871.

Specification 3. In this, that the cadet Enoch H. Flickinger, United States Military Academy, having reported his room as being "all right," did fail to correct said report after the absence of his room-mate had exceeded the ten minutes authorized for necessary absences by the regulations United States Military Academy.

All this at or near West Point, New York, on or about the 2d day of January, 1871.

E. UPTON,
Lieutenant Colonel First Artillery Commandant Cadets, officer preferring the charge.

Witnesses:

Cadet J. E. SHORTELLE.
Cadet R. B. WATKINS.
Cadet C. C. HEWITT.
Cadet Corporal B. REYNOLD.

[Indorsed.]

Approved.

T. G. PITCHER,
Superintendent Military Academy.

Resignation.

WEST POINT, *January* 6, 1871.

SIR: I have the honor to tender the resignation of my appointment of cadet in the service of the United States.

I am, sir, very respectfully, your obedient servant,

ENOCH HORACE FLICKINGER,
Cadet United States Military Academy.

HON. SECRETARY OF WAR.

[Indorsed.]

HEADQUARTERS U. S. CORPS OF CADETS,
West Point, N. Y., January 6, 1871.

Respectfully forwarded, approved. Charges have been preferred against Cadet Enoch H. Flickinger of such a nature as to induce his dishonorable dismissal beyond question. I recommend the immediate acceptance of his resignation, which is freely tendered with a view to avoid publicity. The consent of parents to the resignation of cadets should be waived in this case, as to require it would occasion useless mortification and delay.

E. UPTON,
Lieutenant Colonel First U. S. Artillery, Commandant of Cadets.

UNITED STATES MILITARY ACADEMY,
West Point, January 6, 1871.

Respectfully forwarded. For the reasons stated in the indorsement of the commandant cadets, I would suggest that Cadet Flickinger's resignation be accepted at once.

T. G. PITCHER,
Superintendent Military Academy.

WAR DEPARTMENT, OFFICE OF THE INSPECTOR
OF THE MILITARY ACADEMY,
Washington, January 9, 1871.

[Orders No. 1.—Extract.]

I. The resignations of Cadets William Baird and Enoch H. Flickinger, United States Military Academy, have been accepted by the Secretary of War.

* * * * * * *

ED. SCHRIVER,
Brevet Major General, Inspector.

SUPERINTENDENT MILITARY ACADEMY.

A true copy:

E. C. BOYNTON,
Brevet Major and Adjutant.

HEADQUARTERS UNITED STATES MILITARY ACADEMY,
West Point, N. Y., January 10, 1871.

[Special Orders No. 3.]

I. In the hope that time and sober reflection would impel the first class, concerned in the recent unwarrantable outrage on certain members of the fourth class, to disavow and regret their hasty action, the superintendent withheld his disapproval of their mob-law violence until all the circumstances were fully made known. From these it appears that certain cadets of the fourth class were guilty of a violation of the regulations and of the law concerning veracity, which, considered in relation to recent similar occurrences, are calculated to destroy the well-deserved, and until now the well-preserved, good name of the corps of cadets.

While conceding that the motive which animated the members of the first class originated from a praiseworthy source, no words can express too forcibly the disapproval by the superintendent of the assumption of power by cadets, until now unknown to those who organized and for sixty-eight years have governed the Military Academy. Well may the enemies of the institution point sneeringly at its teachings, which, after nearly four years, have produced in its graduating class no better fruit than this.

While expressing his bitter and profound regret at the cause and consequences of this most discreditable affair, the superintendent is of the firm conviction that but few of the entire body of cadets hold the reputation of the Military Academy in so little esteem as not to feel the deepest mortification at this exhibition of mob law among its members.

II. Until further orders the members of the first class will be confined to the limits of the plain bounded by the carriage roads passing the barracks, library, Fort Clinton, and the superintendent's quarters. They are further deprived of all privileges and indulgence granted cadets, nor shall they apply for the same.

Members of the class not implicated may be relieved from the operations of this order, in disavowing all connection with this disgraceful affair.

By command of Colonel Pitcher.

EDWD. C. BOYNTON,
Brevet Major and Adjutant.

INSPECTOR MILITARY ACADEMY.

Report of Superintendent.

UNITED STATES MILITARY ACADEMY,
West Point, N. Y., January 11, 1871.

SIR: I desire to bring to your notice, officially, the circumstances attending the action of the first class on the evening of the 3d instant, which I have already unofficially informed you of.

The causes which led to this unwarrantable action will be fully understood by the charges already forwarded, and the statement of the members of the first class, voluntarily tendered, and which is herewith forwarded. I will only add that one of the victims of this outrage (Cadet Barnes) assures me that no violence whatever was used toward them. The facts are simply these: They were aroused about 12 o'clock at night by some of the first class, told to get up and dress themselves in their citizens clothing, and were then conducted to the road running between Fort Putnam and the post, and told to leave, and not to return, on pain of being used more roughly if they did.

My order of yesterday will explain what action I have taken in the matter. The gravity of the offense was not fully understood until some days after the occurrence. My constant attentions upon the examinations will, I trust, in a measure excuse my tardy action in this matter.

I am, respectfully, your obedient servant,

T. G. PITCHER, *Superintendent.*

The INSPECTOR OF THE U. S. MILITARY ACADEMY, *Washington, D. C.*

Paper annexed:

WEST POINT, N. Y., *January* 5, 1871.

SIR: We have taken a step of some boldness, but not of precipitation, as we fully considered the consequences of our act before accomplishing it, and were urged to it by motives which we believed to be commendable and to the advantage of the corps of cadets.

The evidences against Cadets Baird, Barnes, and Flickinger were taken into account and fully weighed, and we thought their conduct was such as would justify our course of action.

These evidences are as follows, viz: Cadet Dallam states as follows: "I met Cadet Baird in Cadet Sibley's room just before 'call to quarters.' He seemed to be under the influence of liquor at the time. He told me he was going to 'Buttermilk.' I told him that he ought not to go, as his room-mate could not report 'all right' for him. His reply was, yes he could; that his room-mate would do anything he told him to or wanted him to do, conveying the idea that his room-mate was in some manner influenced by him; that it would make no difference about the matter of reporting all right to the sentinels, providing he were not caught in the act of going off limits to 'Buttermilk.' I endeavored further to dissuade him from his purpose. He burst out of the room and I saw no more of him."

Cadet Sibley states as follows: "I was in the quarters of Cadet Baird soon after supper, and while there Cadet Baird asked Cadet Flickinger if he would report 'all right' for him in case he 'ran to Buttermilk?' Cadet Flickinger replied that he would report 'all right,' which seemed to satisfy Cadet Baird."

Cadet Gillmore states as follows: "On the morning of January 3 Cadet Baird asked me how it would do to say in his explanation that he was on cadet limits at the time? I replied to him if he were disposed to lie about it that would be an excellent way to get out of it, but as for me I would rather be sent away than get out of a 'skin' in that way."

Cadet Watkins states: "I was on the first relief, post No. 2, on the evening of January 2, and when inspecting the room of Cadets Baird and Flickinger, put the usual question, 'All right?' to which Cadet Fleckinger, who was alone in the roon at the time, replied, 'All right,' but in a manner so confused and unreliable as to arouse my suspicions. Consequently, I repeated my question several times, Cadet Flickinger replying, in each case, 'All right.' I was not satisfied with this report, and told Cadet F. that I would report his room-mate, Cadet Baird, absent, in case he did not return in ten minutes from that time. He made some remark to the effect, 'Oh! you wouldn't do that;' or, 'That would be no way to do!' I acted in pursuance of my avowed intention, and reported Mr. B. absent to the officer of the guard, Cadet Shortelle, informing him of my suspicions."

Cadet Shortelle's statement is as follows: "Cadet Flickinger reported 'all right' to the sentinel of the second relief, while I was in his room talking to him about his report to the sentinel of the first relief. I asked him if he did that intentionally. He said he did not. I then went to the guard-room, but thinking it over I went back and ordered him to alter his report. As I was leaving his room he asked me if in case he should report all right to the sentinel of the third relief, if that would fix it all right, and if there would be any more inspections after that."

Cadet B. Reynolds states that "shortly after Cadet Shortelle's return to the guard-room, after having ordered Cadet Fleckinger to change his report, the sentinel on the post 2 called the corporal of the guard, and I answered his call. The sentinel then reported Cadet Baird absent. A few minutes afterward I went into Cadet Fleckinger's room, and I asked him if I should report Cadet Baird absent when the second relief went on post, 7.35 p. m. He replied in a very low voice, 'Well, I did it intentionally.' 'Well, should I report him absent at that time?' when he replied, 'Well, I don't know; I did it intentionally.' After my relief had come off post, I asked Cadet Fleckinger if he had reported 'all right' for Cadet Baird intentionally or unintentionally. He replied, 'I reported unintentionally,' or 'I meant unintentionally.' Some time after this occurred Cadet F. told me that if Cadet Shortelle had not ordered him to change his report he intended to put out his light and go to the sink, so that it would appear 'all right' when the sentinel of the third relief should inspect."

Cadet Wallace makes the following statement: "I was on No. 5, third relief, shortly after 9 o'clock. Cadet Barnes came out of his room and asked me if the officer of the day had inspected. I replied that the officer of the day had inspected, but that the officer in charge had not. Cadet Barnes then reported that it was 'all right' for him, and went out and did not return whilst I was on post."

Cadet Glover states: "I was sentinel on No. 2, third relief, and shortly before tattoo I opened the door of Cadet Baird's room to see if he had returned. In his room I discovered Cadet Barnes. I did not see the latter come on my post, and he could not have entered through the door without attracting my attention, as the doors were closed and could not be opened without some noise; consequently I inferred that Cadet Barnes entered the room through the window."

The events to which the foregoing statements relate occurred on the 2d day of January, 1871. The above is the evidence upon which we acted, and it showed conclusively to our minds that such men as these were unfit to bear the name and be the associates of gentlemen, and were a disgrace to the uniform which they wore. Moreover, from the manner in which some members of the fourth class have been conducting themselves of late, and the utter disregard of the truth which they have evinced, we judged that a severe example was necessary to amend this laxity of principle, and that were the matter to be conducted by the first class it would have a more decided effect upon them than would a regular process by the proper authorities, for their prevarications would, to a great extent, screen them from the eyes of the latter, while little or nothing could be concealed from those who have every opportunity of witnessing and hearing of their misdemeanors. These are the motives which urged us to the conception of our project and the execution of the decided step which we adopted.

We are, very respectfully, your obedient servants,

ULYSSES G. WHITE,
VINTON A. GODDARD,
GEORGE F. CHASE,
Committee representing the first class.

Lieutenant Colonel E. UPTON,
Commanding Corps Cadets.

Letter of the Secretary of War.

WAR DEPARTMENT, *Washington, January* 13, 1871.

DEAR SIR: Referring to the resolution adopted yesterday by the House of Representatives, directing that an investigation be made by your committee into the late disorderly proceedings at the Military Academy, I beg to state that the semi-annual examination of the several classes has been in progress since the 3d instant, and will not be finished much before the 20th day of the present month, if at all before that day. During these examinations the ordinary routine of affairs at West Point is in a great measure suspended, so that the officers and instructors may be as much as possible relieved from any business likely to distract their attention from this particularly exacting duty, and believing that the intended inquiry would act injuriously upon the academy if set on foot at once, I venture to ask that it be suspended till after the 20th instant, pledging myself and the officers thus to be accommodated, to forward the investigation, when begun, to the uttermost extent.

Be pleased to acquaint me with the determination of yourself and your associate members of the committee.

Very respectfully, yours,

WM. W. BELKNAP,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON MILITARY AFFAIRS,
House of Representatives.

Reply.

COMMITTEE ON MILITARY AFFAIRS,
House of Representatives, January 13, 1871.

SIR: In reply to your note of this morning I have to say that the Military Committee will not meet until Monday. I will then lay before them your request for a delay until the 20th of the investigation ordered by the House of the late disorderly proceedings at the Military Academy, and I have no doubt your request will be complied with.

I will inform you of the action taken by the committee.

Your obedient servant,

AMASA COBB,
Acting Chairman Committee on Military Affairs.

Hon. W. W. BELKNAP,
Secretary of War.

Report on E. McD. Barnes, of the United States Military Academy, who at the examination in January, 1871, *was declared deficient in the fourth class.*

Name.	State.	Class.	Age.		Time at academy.	In what deficient.	Aptitude.	Habits with regard to—		Demerit for the six months.	Special report in each case.
			Years.	Months.	Months.			Study.	Discipline.		
Barnes, McDowel Edgar.	California.	4	17	6	6	Mathematics and French.	Little.	Not studious.	Very inattentive.	95	The board recommend that he be discharged.

T. G. PITCHER,
Colonel First Infantry U. S. A. Superintendent Military Academy, President.

EDW'D C. BOYNTON,
Brevet Major and Adjutant, Secretary.

HEADQUARTERS UNITED STATES MILITARY ACADEMY,
West Point, N. Y., January 11, 1871.

Official:

ED. SCHRIVER,
Inspector.

[Orders No. 2.]

WAR DEPARTMENT,
OFFICE OF THE INSPECTOR OF THE MILITARY ACADEMY,
Washington, January 13, 1871.

By direction of the Secretary of War, upon the recommendation of the academic board, Cadet McDowel Edgar Barnes, U. S. Military Academy, declared deficient in studies at the recent examination, is discharged the service of the United States.

ED. SCHRIVER,
Brevet Major General, Inspector.

SUPERINTENDENT MILITARY ACADEMY.

A true copy:

E. C. BOYNTON,
Brevet Major and Adjutant.

WEST POINT, N. Y., *January* 27, 1871.

General THOMAS G. PITCHER sworn and examined.

By Mr. ASPER:

Question. State your age, rank, and position in the academy.—Answer. I am 47 years old; colonel in the United States Army and superintendent of the Military Academy, which position I have held since August 23, 1866.

Q. Go on and state, if you please, in your own language, all you know relative to the recent difficulties that have occurred at the academy.—A. On the morning of the 4th of January, (present month,) soon after the academic board met for our semi-annual examination, the commandant of the cadets, General Upton, reported to me that Cadets Baird, Barnes, and Flickinger had deserted. Immediately afterward he handed me a written report to that effect, which I at once indorsed and forwarded to the War Department. Some time afterward, in the course of the morning, General Upton stated to me verbally that these gentlemen had not voluntarily deserted, but that they had been forced to desert—had been "sent off" by the first class, I think was the expression used; at any rate, that they had done so not entirely voluntarily. I told him that would not do, and that we must take measures to get them back at once. The general stated that he did not think that they had got beyond our reach, and I told him to take measures at once to get them back. The general did so, and reported to me soon afterward that they had got beyond our reach; that they had gone. The next I heard of the young men was the following evening, when I received a note from one of them, dated at Poughkeepsie. I sent for General Upton immediately, and told him to dispatch an officer in the morning and bring the young men back to the academy. He did so, and on the afternoon of the next day they were brought back. It was the next day, I think, during the examination, General Upton told me he had a written statement from the first class in explanation of their conduct. I told him I could not attend to it then, but when we got through we would talk about it. I did not see this statement until the academic board had adjourned; I then received their statement and published my order inflicting punishment in the matter, and made report at once to the War Department. I would state that after these young men arrived the general came to me and brought their resignations written out, which he stated was voluntary on their part; that they were very anxious to get off, and he was anxious that they should go at once. I told him that we would have to await the action of the Department; that I would forward the resignations approved. The charges against them were of a very serious nature, and I thought it best for them to let them resign than to stand a trial.

By Mr. SLOCUM:

Q. When did you first learn that the first class had taken this action? Did you learn of it before it occurred?—A. No, sir; never dreamed of it; no one ever dreamed of it.

Q. You never heard that there was any meeting of the first class until you were informed that the boys were gone?—A. No, sir; not until the boys were gone; no one could have anticipated it.

Q. Did you ever hear of an incident of this kind in the academy before?—A. Yes, sir; I can call to mind two similar instances.

Q. When did they occur?—A. I cannot, without reference to the records, state the time. One of the young men was the victim of a similar outrage, if you may so call it.

Q. Did these cases occur during your superintendency?—A. No, sir; both prior to my superintendency; but within the last ten years.

Q. Has any officer at the academy to your knowledge encouraged the first class in this movement?—A. No, sir; not at all. I do not think there is any officer here who has done so. He certainly would not remain here a day if I had a suspicion of anything of the kind, if I could help it.

Q. Is it customary now for a class to get together and appoint committees to visit the superintendent?—A. It is not.

Q. Has any instance of that kind occurred before?—A. Not within my knowledge. It is not only not customary, but it is against the regulations.

Q. Do you recollect of a case of an instructor here who was insulted by a cadet, and the cadet was punished after trial?—A. Yes.

Q. What was the instructor's name?—A. Captain Clark.

Q. What was the name of the cadet?—A. Shortelle.

Q. What were the circumstances attending that affair?—A. I would have to refresh my memory by reference to the order before I could state it. It was a case of gross insubordination on the part of the cadet. Charges were preferred against him; he was tried, sentenced to be suspended, and afterward reinstated.

Q. What became of the instructor?—A. He is still on duty here.

Q. He was not removed?—A. No, sir; he is still here. He is one of our best instructors.

Q. Was the cadet reinstated on your recommendation?—A. No, sir.

Q. Or any officers of the academy?—A. Not that I am aware of. It certainly did not come through me.

Q. Do you know of the influences that procured his reinstatement?—A. I do not.

Q. Can you tell when it occurred?—A. I cannot, without reference to the orders. I think it was last spring, while the young man was in the second class.

Q. Does that cadet belong to the present first class?—A. Yes, sir.

Q. How did the order reinstating the cadet come to you?—A. It came by mail, in the ordinary way, through the War Department.

Q. After the dismissal of that cadet, and prior to his reinstatement, did Cadet Grant get leave of absence and go from here to Washington?—A. That I cannot state without reference to the records.

Q. I understand you to state, then, that you have no knowledge of the influences that brought that boy back to the academy?—A. No, sir; none whatever.

Q. Never heard any rumor about it?—A. I have heard rumors. I have heard that young Grant wrote to his father about it; but this is mere rumor. I can state very definitely that I have no knowledge in regard to it.

Q. Is there an instructor here by the name of Leger?—A. No, sir.

Q. Has there been such an instructor since you have been here?—A. Yes.

Q. In what branch was he an instructor?—A. In the department of French.

Q. Are you a member of the academic board?—A. I am.

Q. How long was Leger an instructor?—A. I think one year.

Q. Was this Leger an instructor of young Grant?—A. I think he was part of the time. I do not know whether he was all the time or not.

Q. Did Leger recommend that young Grant be found deficient in French?—A. That I could not say without reference to the records.

Q. Was young Grant recommended by any instructor to be found deficient in French?—A. I think he was, once, during the first course.

Q. But you do not remember the name of the instructor?—A. I could ascertain it.

Q. Do you know why Leger was removed?—A. Yes, sir. He was removed because I thought he was incapacitated for a teacher; not that he did not have any knowledge of his course, but because of other reasons which incapacitated him for the position of teacher. He was removed upon my recommendation.

Q. What, in your judgment, has been the cause of this action on the part of the corps of cadets? What is your idea about it?—A. It would be merely inferential. In my opinion, the action of the authorities in remitting the sentences of two young men who, in the month of October, I think, were dismissed on charges similar to those for which these young men were dismissed—namely, lying—had something to do with it. These two young men were charged with lying, tried by court-martial, and sentenced to be dismissed. Their sentences were remitted to six month's suspension; or, rather, they were suspended to go on with the next class. It is my opinion that this had some influence with the first class in their action.

Q. To what class did these two cadets belong?—A. The present fourth class. I would say that this present first class has been one of the most subordinate, obedient, prompt in the performance of duty that has come under my observation since I have been in the academy.

Q. You have sentinels at the barracks all night?—A. No, sir; only sentinels until taps.

Q. At what time did this affair occur—the driving out of the cadets?—A. I think it was some time between tattoo and 12 o'clock.

Q. Is not the officer of the day supposed to be on duty at that time?—A. The officer of the day is not on duty all night.

Q. You heard nothing of this disturbance until you were informed the next day?—A. No, sir; there was no disturbance about it; no noise to disturb any one as far as I know. I suppose it is unnecessary to state that it was something that no one could anticipate.

Q. How many boys that have been dismissed have been reinstated since you have been superintendent?—A. I could not tell that without reference to the records.

Q. Please furnish the committee the names of cadets who have been dismissed from the academy and afterward reinstated, and upon whose recommendation it was done, if you can ascertain that?—A. I will do so.

Q. Did you inflict upon these young men of the first class, who were guilty of this offense, the extent of punishment that you were allowed?—A. Yes, sir; I considered that I did.

Q. Is there any difference among them as to guilt; any ringleaders?—A. I would state that in my order inflicting punishment I said that any gentleman disavowing complicity in the act would be relieved from the operations of the order. Since its publication I think I have relieved three; one gentleman was in the hospital.

Q. Give their names in this connection.—A. Pardee, Mansfield, Mott, and Wheeler. Two other gentlemen who were not included in the first order were afterward included under the provisions of it.

Q. Of these four one was in hospital, and the others disapproved of it?—A. Yes, sir.

Q. To your knowledge, has any officer approved of this action of the first class, or indorsed it in any manner?—A. I think not. If they did they would not stay here if I could help it.

Q. Since forwarding these papers to the War Department have you received any communication on the subject?—A. I have not.

Q. No notice has been taken of it?—A. None further than the acceptance of the resignations of the young men.

Q. You forwarded to the War Department a full statement of all that has transpired, and the Department has taken no notice of it except to accept the resignations of the boys?—A. That is all.

Q. The resolution under which this committee is acting was introduced in the House on the 8th of January, before, I believe, your report was received at Washington?—A. My report is dated January 10.

By Mr. ASPER:

Q. Have you letters from the Department accepting these resignations?—A. It is a special order.

Q. Can you furnish this committee with a copy?—A. I can.

By Mr. SLOCUM:

Q. Is it customary for the Department to reinstate boys here without your knowledge, or without informing you upon whose recommendation it is done?—A. We are never informed of that.

Q. They never inform you upon whose recommendation it is done, and they do reinstate boys without conferring with you in any manner?—A. Yes, sir.

Q. They never ask you for a report upon the case when an application for reinstatement is made?—A. No, sir; it is a sentence of court-martial, and it goes up to the authorities for approval.

By Mr. ASPER:

Q. When did you first hear of this affair?—A. The offense occurred on the night of the 3d of January, and on the morning of the 4th it came to my knowledge.

Q. And then you heard nothing of it until informed by the commandant?—A. No, sir.

Q. It would not any way come under your immediate supervision?—A. It would come to me through the commandant in the course of his routine duties.

Q. How early in the morning of the 4th of January did you hear of their desertion?—A. About 10 o'clock.

Q. How was it reported to you?—A. The commandant of the cadets first reported it to me verbally, and afterward he brought me a written statement.

Q. Had the charges not been preferred against the young men?—A. The charges, I do not think, had been preferred then.

Q. Were they not under arrest on the night of their being taken away?—A. That is something that would not come under my general supervision. The commandant had not reported it up to that time. You understand that he has immediate control of the corps of cadets.

Q. What voice have you in the discipline of the corps of cadets?—A. I have general supervison of the whole instruction, discipline, &c., of the corps. The commandant reports to me of course.

Q. I understand you to say that a note was sent to you by one of the boys.—A. Yes, sir.

Q. Can you furnish the committee with that note?—A. I think I can find it. It was written from Poughkeepsie the night after they left here.

Q. Did it come by mail?—A. Yes, sir.

Q. By whom was it signed?—A. By Mr. Baird.

Q. You can produce the note?—A. I think I can.

Q. At what time did you first know of the action of the first class in reference to this matter?—A. I think it was on the 5th. The commandant stated during that day that these gentlemen had not gone away voluntarily; that the first class had something to do with it; and the next day he made a written statement about it. He had before this made a written report of their desertion, which I forwarded to the Department.

Q. And after that report went he stated to you that it was an involuntary affair?—A. Yes, sir; and made further report on the subject, which I forwarded.

Q. What conduct, if any, had these three boys been guilty of previous to this time that might raise prejudice against them?—A. Nothing against two of them—Baird and Flickinger. So far as Baird was concerned he was a very good boy. Barnes had been tried before for making a false statement, and acquitted.

Q. Was that Flickinger's first offense?—A. He was a very reckless and indifferent kind of a man, but I think there was no charge against him.

Q. Was there anything serious against him?—A. Oh, no! He was only indifferent

and careless; that is, so far as I know. I had occasion to send for him and admonish him about his reckless and indifferent conduct.

Q. What part, if any, does the institution take in the moral training of the boys?—A. The same as other colleges—nothing beyond that. I am always particular, when I see a young man going astray, to send for him like I would my own boy.

Q. Was there anything that came to your knowledge tending to show any feeling between the first and fourth classes?—A. Nothing whatever.

Q. Will you state to us how it is that a boy who stood as well as young Baird, a son of an officer of the army, should, for this one misconduct, be treated so harshly, and his resignation urged by General Upton?—A. You have no reference to the corps of cadets?

Q. No, I am speaking in relation to young Baird.—A. I had probably better explain, that while Baird was not charged directly with lying, he connived with his room-mate to make this false report.

Q. But this was his first offense. I want to know why the first class should treat a boy so harshly, just for this one offense?—A. That I cannot explain. I suppose it is unnecessary for me to state that lying is considered a very high offense here. It has always been my effort to encourage truth-telling and to discourage prevarication. We always take a cadet's word for anything until we have reason to believe otherwise; I have tried to do so. We never for a moment doubt his word. If he says so and so that is sufficient for me, and I think that during the history of this institution this has been the practice.

Q. Is it not usual, when a class of young men like these are gathered together and are under strict discipline, to take opportunities of that kind and try to cover them up?—A. It certainly very rarely comes to my knowledge.

Q. Suppose that Baird had taken it on himself to leave the barracks and go out for two or three hours and the other boys had said nothing about it; what connection would there have been between Baird and them; would they have been subjected to punishment?—A. They are required to report. The sentinel of the post comes to the door to ascertain whether all is right in that room, and the occupant of the room must respond.

Q. Suppose Flickinger had said "not all right?"—A. Then Baird would have been caught.

Q. State Flickinger's conduct previous to this affair.—A. I think his conduct had been very fair up to that time. His demerit record is not so good. I think his conduct had been very fair.

Q. Is there any other cause than the one you have stated for this action of the first class in reference to these boys?—A. Not that I am aware of.

Q. In whose handwriting is that resignation?—A. It is a lithographic form.

Q. In whose office are these papers kept?—A. In the adjutant's office.

Q. Do you know anything about the signing of these resignations?—A. No, sir; they were brought to me by General Upton.

Q. How did Barnes get dropped?—A. Barnes came back, stood his examination, was found deficient and was discharged.

Q. What had his connection with this affair to do with his being dropped on examination?—A. Nothing at all.

Q. His examination occurred after his return?—A. Yes.

By Mr. PACKARD:

Q. Have you any recollection of the difficulty between a cadet by the name of Woodruff and another by the name of Hoyle?—A. Yes, sir; I merely recollect there was a difficulty between them.

Q. Didn't Hoyle make a statement that what he had stated previously in reference to Woodruff was false?—A. I do not recollect clearly about that. The commandant can probably tell you clearly on that point. I recollect that there was some difficulty, and that Mr. Hoyle had charges preferred against him which were afterward withdrawn.

Q. He having retracted his statements?—A. I think so.

Q. What I want to know is whether these facts came to the knowledge of the first class; and if so, why they made a distinction—why they treated Baird and these other men so summarily, and let Hoyle escape.—A. The commandant can tell you all the facts.

By Mr. ASPER:

Q. Did you demand a court-martial for this first class?—A. I did not; I simply made a report of the facts to the Secretary of War.

Q. What steps did you take in reference to their conduct previous to making this order of the 10th of January, or whatever date it is?—A. I simply had them make a statement, and on that statement I published that order and made report to Washington.

Q. That statement of theirs seems to be a justification of their conduct, does it not?—A. Somewhat, sir.

Q. That was their object in making the statement?—A. Yes, sir.
Q. Is it not the duty of the cadets to remain in barracks after taps?—A. Yes, sir.
Q. The first class had no more right to be absent than Baird had?—A. No, sir.
Q. It seems, from their own confession, that they had been absent from their quarters?—A. Yes, sir.
Q. And violated the rules of the institution in that respect?—A. Yes, sir.
Q. And no action has been taken in regard to it?—A. Nothing, except for the offense they committed.
Q. Did these boys not know that they violated the rules of the institution?—A. They must have known it.
Q. Their offense was not lighter than the offenses committed by Baird and the other boys?—A. It was absence after taps.
Q. And this was the same offense that Baird was guilty of?—A. One of the offenses.
Q. The same offenses the other boys were guilty of—covering up their absence?—A. No, sir; It was for making false report—a good deal of difference between the two offenses.

By Mr. SLOCUM:

Q. Who reinstates cadets; is it done by order of the President or of the Secretary of War?—A. They come through the Secretary of War; they are signed by the inspector by order of the Secretary of War.

By Mr. ASPER:

Q. For how long a period in the history of the academy has that practice been observed, of reinstating cadets without reference to the superintendent?—A. I presume always. It has never been otherwise to my knowledge. The authorities never consult a juror about their action. If the Secretary of War thinks proper to reinstate or reverse the decision of a court-martial, he can do so.
Q. If a statement is made to you about a cadet in the academy who is under the immediate command of the commandant of the corps, would you not refer it to him before taking any action upon the matter?—A. Of course; he has immediate control of the cadets.
Q. Would not the Secretary of War naturally refer to you any matter in relation to the academy before taking any action in regard to it?—A. That is not the custom.

By Mr. SLOCUM:

Q. Now, was not that done?—A. O, no.

By Mr. ASPER:

Q. Suppose a member of Congress should go to the Secretary of War and say, "I want my boy to have fair play; he has been expelled for some offense;" would not the Secretary of War refer that to you before he acted?—A. No, sir. If he was tried by court-martial he would have all the facts before him.
Q. Are cadets dismissed or suspended without the action of a court-martial by you?—A. No, sir.
Q. But the Secretary has such power?—A. Yes, sir; he can dismiss or reinstate.

By Mr. SLOCUM:

Q. Will you look over your records and give me the number of cadets that have been reinstated during the last ten years, the offenses for which they were dismissed, and upon whose recommendation they were reinstated, if you can tell us? Also furnish us with a copy of the proceedings in the cae of Shortelle.—A. I will do so.

WEST POINT, N. Y., *January* 29, 1871.

General EMORY UPTON sworn and examined.

By Mr. ASPER:

Question. State your rank and position, both in the Army and here, and how long you have held the position here.—Answer. I am colonel First United States Artillery and brevet major general United States Army, and commandant of the Corps of Cadets, United States Military Academy; have held that position since July 1, 1870.
Q. Please state to the committee, in your own way, all you know in relation to the recent transactions here about which this committee is inquiring, giving names, dates, &c.—A. The unauthorized absence of Cadet Baird from his quarters, and the false report made by Cadet Flickinger to cover his absence, were reported to me officially, I believe, by the officer of the day on the morning of the 2d or 3d of January. I could tell exactly by looking at the official records.
Q. Was that report in writing?—A. It is an official report; whether in writing or not I cannot say.
Q. If it is I would like to have a copy of it.—A. I can furnish you with a copy if it

was in writing. The circumstances connected with it were reported to me, and the fact that Cadet Flickinger had answered all right to the sentinel. I sent for Mr. Shortelle, who was officer of the guard, in regard to the matter to ascertain the whole truth, and I believe it was from him that I learned that the sentinel received the answer "all right" from Flickinger. Shortelle was required to inspect the relief.

Q. What does this inspection mean?—A. It is to ascertain whether all is right in the barracks. The form "all right" as applied to a room signifies that all the cadets who belong in the room are present; that no cadet is absent, or if absent is absent by proper authority or for a necessary purpose, which covers an absence of only ten minutes; and if anybody is visiting in the room, it is on duty or by authority. It simply imposes on every cadet to make answer on his honor. Cadet Flickinger reported to the sentinel, Watkins, when asked, "all right."

Q. You don't know anything about that except as it comes to you?—A. Except as it was reported to me by the officer. Flickinger made this report in such a manner as to lead Mr. Watkins to believe it was not all right.

Q. Do you get this from the report the first class made to you?—A. No, sir; I get it from the report the officer made to me.

Q. Are these reports usually in writing?—A. The sentinel makes a verbal report. If the cadet is absent that absence is recorded on the report of the officer of the day, and comes to me in writing. Mr. Baird, I am pretty sure, was reported absent on the report of that morning. I will send for the reports and lay them before the committee. As I was saying, Cadet Flickinger reported in such a manner as to denote to the sentinel that he was making a false report, and when the officer of the guard asked the sentinel if it was all right on his post, he answered that it was reported all right. "Well," says the officer, "if it is reported all right it is expected to be all right. Why do you say that?"—Mr. Watkins replied that Flickinger reported all right, but he did not think it was all right for Mr. Baird, who was Flickinger's room-mate. Flickinger had made this report, and it became official through the officer of the guard of the next relief that went on at 8.40. In the mean time Shortelle went to Flickinger to ascertain what he meant, and whether he intended to report in that way. When the next relief reported, I understand that Shortelle was in the room at that time investigating the case, and Mr. Flickinger repeated the report again, showing that it was deliberate on his part, and false; and on the testimony I collected that morning I issued the order placing him in arrest.

Q. When did you issue that order?—A. On the morning of the 3d.

Q. Who were embraced in the order?—A. Cadet Flickinger.

Q. Anybody else?—A. I think Cadet Barnes.

Q. How was Barnes connected with it?—A. Barnes was in Flickinger's room. Mr. Barnes came out of his room and asked the sentinel if the officer of the day had inspected. The sentinel replied he had, but the officer of the guard had not. He then said, "It is all right for me." It could only have been all right if he was going to the sink. If I had inspected the guard at any time within ten minutes, the sentinel would have been justified in reporting to me "all right," accepting, of course, Mr. Barnes's statement as true. Instead of going to the sink and staying ten minutes he absented himself from his quarters for a considerable time, and was found in Cadet Flickinger's room many minutes after, under any circumstances, the proper time for him to return to his own room.

Q. Who found him?—A. The sentinel in Mr. Flickinger's division. He was found in Flickinger's room, and he had not come through the door. He had evidently entered through the window. That was sufficient to my mind to convict him of false statement.

Q. How convict him of a false statement?—A. He had reported "all right" to the sentinel, and it became a false report the moment he did not return. It was intended to cover his absence.

Q. Was Barnes present when the sentinel asked?—A. Every cadet, when he leaves his room, is required to report to the sentinel. When Barnes came out of his room and reported to the sentinel "all right," it meant that he was going to the sink. Instead of that he goes to visit another room, going through the window, and was found there by the sentinel.

Q. When did you hear of that?—A. It came to me officially from the officer of the day.

Q. Was that report in writing?—A. I think it was a verbal report.

Q. What did you do?—A. That was sufficient to put him under arrest. I put Cadets Flickinger and Barnes in arrest for false statement, and Cadet Baird in arrest for absenting himself so long a time from his room. I did not know then that he had been at Buttermilk Falls. There is a regulation that when a cadet is reported absent he shall render a written explanation, and if he does not expressly state in it that he was on cadet limits he shall be considered as having gone off cadet limits, and punished accordingly. That was the extent to which Mr. Baird had involved himself up to the time when the first class took their action.

Q. Who wrote out these charges against the cadets?—A. They were written out in my office, under my direction.

Q. Upon these charges, who ordered the arrest of the boys?—A. I did. I generally give a writtten order: "Cadet So-and-so is placed in arrest; charge, conduct unbecoming an officer and gentleman—making false statement."

Q. That is in writing?—A. Yes, sir.

Q. We would like to have copies of the orders in these cases.—A. I will supply the committee with them.

Q. What is the form of arrest?—A. The cadet sergeant is sent for and the order delivered to him. He proceeds to the cadet and says: "You are placed in arrest; charge, so-and-so." That is a verbal order, and then at parade following the official order is published to the corps.

Q. When were these arrests published?—A. On the 3d of January. It was on the night of the occurrence.

Q. Was it published before the whole corps?—A. Yes, sir.

Q. Including the first class?—A. Certainly.

Q. Did these boys violate their arrest?—A. Not to my knowledge. I have here now the morning reports, and will read such references as appear in them in regard to Baird, Flickinger, and Barnes. On the report of January 3 appears the following: "Cadet Baird absent from quarters at inspection of sentinel, 7.35; and again at 8.40 p. m." This is the official report of the officer of the day, Cadet Lieutenant A. H. Nave; and in the same report, in Mr. Nave's writing, is stated: "Mr. Barnes is reported from quarters over ten minutes." This report was handed in on the morning of the 3d, and all of this occurred on the night of the 2d. Cadet Flickinger's name is entered for making false report to the sentinel, and it is entered in the name of the officer of the guard, Shortelle. In addition to this the officer of the guard makes a personal explanation. Upon that report I made an investigation, and made the order for the arrest of the cadets. This thing occurred on the night of the 2d. The first time it could be brought before me officially was the next morning at 8 o'clock, when the officer of the day made his report.

Q. Is it usual for the officer of the day to make an extended verbal report beyond what he makes in writing?—A. Sometimes he makes other statements.

Q. This, then, was one of those cases in which he made a special report in addition to his written report?—A. Yes; he had reason to believe there was an official falsehood to report it. This morning report is given on his honor: "I have the honor to state that I have performed my duty as officer of the day in accordance with existing rules and orders." I have here an official copy of the order placing Cadets Baird, Barnes, and Flickinger in arrest, published officially to the corps, January 3, 1871:

"[Special Orders No. 1.]

"HEADQUARTERS CORPS CADETS,
"*West Point, N. Y., January* 3, 1871.

"I. Cadet Baird is hereby placed in arrest and confined to his quarters.

"CHARGE. Absent from quarters without authority, during all inspections of sentinels from call to quarters till tattoo, on the evening of the 2d instant.

"II. Cadets Barnes and Flickinger are hereby placed in arrest and confined to their quarters.

"CHARGE. Conduct unbecoming an officer and a gentleman, making false report to sentinel on the 2d instant.

"By order of Lieutenant Colonel E. Upton.

"EDGAR Z. STEEVER, JR.,
"*Cadet Lieutenant and Adjutant.*

"Official copy."

Q. Have you the morning report of the 4th?—A. Yes, sir. I would state that the absence of Cadet Baird from 7.35 to 8.40 p. m., as reported on the morning report of 3d, is sufficient cause to place him in arrest without any investigation whatever. This is a report of Cadet Lieutenant Mott, officer of the day, relieved on the morning of the 4th. On this appears the names of Barnes, Flickinger, and Baird, reported by him for absence from reveille and breakfast roll-call.

By Mr. SLOCUM:

Q. Was it part of the business of the officer of the day to visit quarters at night?—A. It was not.

Q. How was it the officer of the day of the previous day knew of the delinquencies of these three boys, while the officer of the day of the next night failed to report that the whole first class had gone to the quarters of these men?—A. I will state that never within my recollection, dating back until 1856, has it been customary to have sentinels

in barracks after 9.45 p. m. The only means that have been taken to keep cadets in their quarters after tattoo, and between that and reveille, is by means of frequent inspection by an Army officer in charge of the various cadets. They make this inspection once a week, and sometimes oftener.

Q. What are they called?—A. Assistant instructor in tactics.

Q. One of these officers did not make such an inspection that night?—A. It did not happen that they made one that night. It is possible for every man of the corps to be absent to-night, and to remain absent until reveille. It has never been thought necessary to keep sentinels on post all night. The officer of the day is not on duty at all after half-past ten. You understand that it has never been considered necessary to have sentinels on post all night. Of course if there are no sentinels men could steal out of their rooms quietly and nobody would be wiser at all. It will probably appear to you that Mott was the only man in the class who was profoundly ignorant of what was going to occur. Of course they could not say anything to him, because it would have been his duty to report it.

Q. He was on duty that night?—A. Yes, sir.

Q. You say officer Mott was of the first class?—A. Yes, sir.

Q. He was profoundly ignorant of what transpired that night?—A. Yes, sir.

Q. How was this class situated; all together?—A. No; they are distributed probably in every division of the barracks.

Q. Was Mott rooming with a member of his own class?—A. I believe he is.

Q. Did that member of the class know anything of this transaction?—A. That I do not know; it would have been possible for that member of the class to steal out of his room and Mott know nothing about it. Many men going to bed at half-past ten never wake up at the firing of the gun, and do not rouse until a "bull's-eye" is thrown on their face.

Q. Have you the morning report of the 5th?—A. Not with me, but there is nothing on the report of that day relating to this subject, I believe.

Q. When did these boys return?—A. I would like to look at my morning reports before I answer that question. It was either the 5th or the 7th.

Q. Their resignations are dated the 6th?—A. I believe that was the day they came back.

Q. On what day were they reported "absent from reveille and breakfast roll-call?"—A. That is on the report of the 4th, but the officer stated verbally in addition that they could not be found in their rooms. My impression was that they had deserted, and I made the remark that I was not prepared for such depravity.

Q. When did you learn that they had deserted?—A. About 8 o'clock on the morning of the 4th.

Q. Now, then, what further did you learn about them, and when and how?—A. The next thing I learned in regard to them was that two members of the first class, Cadets Wasson and Russell, came to me and reported the circumstance of the class having gone to their rooms the night previous, having ascertained to their satisfaction that these cadets had been guilty of falsehood. Of course they went into a justification of their course. They stated that the reputation of the corps had been suffering a long time from statements that the members were not as truthful or as honorable as they had been before, and that too many cases of this character had come to light recently, and they believed it was necessary to place some seal of condemnation upon that kind of conduct, and that they decided as a class that the only way they could do that was by telling these persons to leave the post, that they would not have them in the corps. They stated they went to the rooms of these cadets and informed them of this, took them up the back road near Fort Putnam, gave them citizen's clothes and some money, I think they said $50, to support them until they could get assistance from their friends, and then told them to leave. They stated further that it was a transaction of the whole class, and that they were all alike responsible.

Q. What time did they make this statement to you?—A. It was before 11 o'clock, I think, on the morning of the 4th of January.

Q. What did you then do?—A. I reported it to the superintendent.

Q. What further action was taken?—A. These gentlemen told me that there was nothing done but what any member of the class would tell me freely, and that they had given me the substance of it. I then directed them (for it amounted to a direction) to submit to me in writing the evidence on which they acted.

Q. You asked them to submit the evidence?—A. Yes; for I wanted to get at the root of the matter. They then submitted this statement to which the names of Chase, Goddard, and White were signed. The act was avowed as the act of the whole class, and one for which they expected to receive punishment. They said they were willing to do this rather than that the state of the corps should degenerate, or that it should be subjected to a bad reputation. All this I say I reported to the superintendent. I did not consider it necessary to put the whole class in arrest, for the reason that whatever was done should be done in a very deliberate manner, and there was plenty of time to consider what steps should be taken in the premises.

Q. The regulations require all the cadets to be in their rooms during the night, do they not?—A. Yes, sir.

Q. It is expected of them as a matter of honor?—A. No, sir; it was not, and never has been. The requirement is that they shall be in their rooms from taps to reveille.

Q. Now this first class absented themselves from their rooms contrary to regulations?—A. Yes, sir.

Q. And two of the members of that class waited upon you the next day and told you?—A. Yes, sir.

Q. When did they submit their defense in writing to you?—A. I think it was the following day.

Q. Was it before or after these boys were brought back?—A. I am not positive as to that.

Q. How did you learn where the boys were?—A. I heard at first that they were at Highland Falls, but I could get no communication with them there. Afterward I got information that enabled me to find where they were from Mr. Baird, who wrote me a letter dated at Poughkeepsie.

Q. Who went for them?—A. Mr. Starring, one of my assistants. I telegraphed Mr. Baird, on receiving his letter, to wait there.

Q. Did he bring them all back?—A. He brought back Flickinger and Baird, I think.

Q. At 11 o'clock you learned that these boys had not deserted?—A. Yes, sir.

Q. At what time was the report made to the Secretary of War that these boys had not deserted?—A. That I do not know. My report was made before I had any knowledge of it.

Q. What report?—A. My report to the superintendent.

Q. What, if anything, has been done with the first class about it?—A. Nothing has been done except the fact has been reported to the War Department and an order issued by the superintendent.

Q. Did you make any report in writing to the superintendent about the first class?—A. No sir, I did not; I have daily contact with him.

Q. You reported to him verbally during the day that these boys had deserted?—A. That I reported him officially, and sent a regular letter to him.

Q. What you reported about their not having deserted was done verbally?—A. Yes, sir.

Q. What day did you report that fact?—A. That I am not prepared to state.

Q. Examine this letter and state in whose handwriting it is, and what it is. (Paper handed witness.)—A. That is a letter to the inspector of the Military Academy, signed by the superintendent.

Q. In reference to the desertion of the boys?—A. Yes, sir.

Q. When is it dated?—A. January 4.

Q. State what action, if any, was taken in reference to this first class?—A. The action that I have stated. I understand that the facts were reported to the inspector of the Military Academy or to the Secretary of War, and a special order issued confining them to the Plain; that order is still in force, and deprives them of all their privileges.

Q. No arrests were ever made?—A. No arrests were ever made. I can give you one good reason for not arresting the whole class; the first-class cadets stand in the relation of officers to cadets below them, and to place the whole class in arrest would have been to entirely subvert discipline. It was tried once, and it resulted in the appointment of other cadets as officers who were not fitted for the places, and who were promoted not because of any particular merit of their own, but simply to meet the exigency of the moment, and it resulted in reducing discipline very materially.

Q. These cadets still perform duty as officers?—A. Yes, sir; they perform the same duty as before.

Q. Treated in the same manner as if nothing had occurred?—A. They are deprived of their limits and privileges.

Q. How long had these three boys been here?—A. Barnes and Flickinger were admitted in June, and Baird, I believe, in September.

Q. What has been the conduct of Baird since his admission here?—A. Within my knowledge it had been exemplary up to this time.

Q. He had never been charged with lying up to this time?—A. He had never been charged to me.

Q. His standing was as good as any man in the class?—A. I have heard expressions of officers not complimentary to him, but he had never been charged to me with anything.

Q. What was Flickinger's standing?—A. He had never come before me for anything of this nature.

Q. Was his standing as good as the class generally?—A. I believe it was.

Q. What was Barnes's conduct?—A. Barnes was a very depraved character in my opinion, wholly unworthy in regard to matters of truth; he was filthy in appearance and ungentlemanly in his conduct; there was nothing about him denoting self-respect or pride as a cadet.

Q. Had he ever been charged with misconduct?—A. He has been tried for an offence very similar to this.

Q. What was the result of the trial?—A. He was acquitted; there were other cases, however, that could have been proved completely in regard to his lying.

Q. Do you know the facts of your own knowledge?—A. The facts were reported to me in such a manner that I could have taken action if I wanted to.

Q. If you have now the morning reports before you I wish you would refer to them and state what they contain in reference to these three cadets.—A. On the morning of the 6th Baird and Flickinger are still reported absent without leave; Barnes had been dropped as a deserter, and does not appear on this report; in regard to this matter these cadets should have come back and reported to me the next morning; that would have been their duty in the case; Mr. Baird says that he would have done that, that he knew it was his duty, but I believe he was afraid of the first class. I have his letter.

Q. What report, if any, did these boys make to you when they returned?—A. I had the letter that Baird wrote that night, and as the class had confessed the whole thing, so that I knew without any further investigation what had been done, they assured me that violence had not been done.

Q. Was anything stated about threats?—A. I do not remember. It is very natural that there should have been threats under such circumstances.

Q. Did they say anything about it?—A. I do not think they did.

Q. Is it not unusual to examine boys under charges?—A. I cannot say that I have a fixed rule in regard to the matter; I sometimes send for the boy and examine him.

Q. About what time did these boys come back?—A. They must have arrived here about 3 or 4 o'clock in the afternoon.

Q. What time in the afternoon did they send in their resignations?—A. Shortly afterward.

Q. Who advised them to resign?—A. I called Flickinger and Baird to my office, and told them of the state of the case and the charges against them, mentioning the evidence I could produce against them. Flickinger fully avowed having been guilty of the offence, and Baird did practically the same thing. He tried to excuse his conduct on the plea of intoxication. I told them that they would be tried of course, and it was for them to decide whether they would stand trial or not; that they were under no obligations to resign, and I expressly stated to them that they must feel that they were not resigning under compulsion; that they could resign or not as they chose, but that under the circumstances it was best for them to resign. I told them of all the evidence against them, and they finally concluded to resign.

Q. What did you say to them about the continuance of the difficulties between them and the first class if they did not resign?—A. I do not think I stated anything.

Q. Is it usual in the practice of the academy to dismiss boys by court-martial for an offense of this character, and it being the first offense?—A. I have never known of a case being officially condoned. I have always considered it my duty to take prompt action in the matter, and whenever I have the facts of a cadet making a false report so that there is no doubt about it, I shall prefer charges against him most assuredly.

Q. Is it usual for courts-martial to dismiss cadets for this offense?—A. They have to do it; they have no discretion.

Q. Is there no discretion in you about preferring charges?—A. It is entirely discretionary with me.

Q. Do you usually prefer charges for the first offense?—A. I have never failed to prefer charges when I found a cadet deliberately falsified. There are all grades of falsehood, from perfect truth through ingenuousness to downright falsehood. I have to be careful that I have a case of intentional falsehood.

Q. What, in your opinion, was the cause that induced the first class to this action; what was the true motive that induced them to this act?—A. The action was wholly unexpected to everybody, and the only reason that I ascribe, and the only one stated in their own explanation, was the desire on their part to purge the corps of any men guilty of dishonorable acts. That was, I understand, the impelling motive. It was the motive they alleged to me, and the sole motive, I believe.

Q. But these boys had not been guilty of any offense previous to this time?—A. The offense of falsehood has always been regarded as a most serious one here, both officially and among the cadets themselves, and naturally it must be a grave offense, inasmuch as the whole character of an officer rests on his integrity. He can be of no service to the Government if he is not a man of integrity.

Q. How was it yourself and General Pitcher urged the acceptance of these resignations without reference to the parents, as is usual in such cases?—A. They had committed the offenses with which they were charged, and I thought it was better for the men the quicker they were out of the corps.

Q. Would it not have been better to have had a trial by court-martial to see if they were guilty?—A. If a cadet is conscious of having committed the offense with which he stands charged he escapes publicity, and that is a consideration for a cadet resigning,

if he knows he will be found guilty. I only advised their resigning in case they knew the charges were true.

By Mr. PACKARD:

Q. Cadet Barnes did not resign, but was examined by the board and found deficient?—A. Yes, sir.

Q. What day was that?—A. I will have to refer to the records of the academic board to answer that.

Q. Who filled up the lithographic forms of letters of resignation for Cadets Baird and Flickinger?—A. I understand they did this themselves.

Q. Where was it done?—A. It was done in their own room.

Q. Where did they get the blanks?—A. At the adjutant's. The blanks are kept there, and supplied to those who want them.

Q. Who brought their resignations to you?—A. I believe they brought their resignations in person.

Q. Within a half an hour or an hour afterward?—A. Yes, sir, they went to their room with an officer. I would like to have it fully understood that the whole motive I had in advising them to resign was that I felt perfectly confident they were guilty of the offense, and the effect of the immediate acceptance of their resignation would be beneficial to the corps, as stamping that conduct in such manner that it could not be very well imitated.

By Mr. SLOCUM:

Q. What effect would the action of the first class have on the corps?—A. The action of the first class, in shaping a certain amount of sentiment in regard to this matter, I think will be beneficial. It will lessen the tendency to falsehood, if there is any such tendency prevailing.

Q. Which would you think, as a graduate and officer of the academy, to be most injurious to its discipline and tone, allowing these cadets to remain in the corps or a mutiny on the part of a whole class?—A. I cannot conceive that a mutiny could occur.

Q. What do you call this proceeding of the first class?—A. It was an act the result of a few moments deliberation—an act that none here in authority could have anticipated or have prevented. It was not an act like refusing to do a certain duty, or planting themselves down and refusing to obey an order. This was the work of a moment and the result of a sudden ebullition of feeling. A mutiny would be where a class took upon themselves to defy the authorities.

Q. Do you know of any instance in which a class took upon themselves to expel anybody from the corps?—A. I never heard of but one other case.

Q. What punishment was inflicted upon the offending class?—A. That occurred before I was commandant.

Q. As to this being absent from quarters, have you not heard of a good many instances of boys going out and leaving stuffed dummies in their beds?—A. No instances of that kind have come to my knowledge since I have been commandant. I would not, by any means, consider that so great an offense as saying "all right" when it was not all right.

Q. Did not that use to be a common offense in your day?—A. It may have been done. He was not required to vouch in words for his presence. I do not think there is a parallel in the two cases.

Q. You think that this action of the first class was for the good of the corps?—A. I do not think it was done for the good of the corps.

Q. You think their intent was for the good of the corps, and that it will have a good effect in inculcating truth?—A. In a certain sense it will have a good effect.

Q. Has it got so that the officers of the academy cannot control the cadets and punish offenders?—A. No, sir; it has not. They can do it if they are sustained.

Q. But they are not sustained fully?—A. I believe that there is sufficient amount of power within the hands of the authorities to carry out all needful regulations for the government of cadets. I think the official action that has been taken in the cases of all these men that have been brought to my notice as having falsified—I think that of itself is sufficient to stop the practice.

Q. Then you have taken notice of these cases?—A. I have taken notice of them officially, and sent them for trial by court-martial, but the authorities in Washington have remitted their sentences.

Q. What cases do you refer to?—A. The sentences of Wagner and Keargman were remitted.

Q. And they were convicted of falsehood?—A. Yes, sir.

Q. Who recommended the remission of the sentence?—A. I know nothing of that. I never heard. The action there was taken upon the general court-martial proceedings.

Q. To what class did they belong?—A. They belonged to the present fourth class. Two other cadets were tried at the same time that belonged to the first class.

Q. What were they tried for?—A. Conduct unbecoming an officer and a gentleman.

Q. For what offense?—A. Erasing delinquencies recorded against one of them from the official books. Knows all the facts; and if the sentence was one of dismissal, he could have an opportunity of placing his views at length upon the proceedings, and this could govern the Secretary of War in issuing his orders. I do not think the superintendent should have the power of dismissal in his own hands.

By Mr. ASPER:

Q. Would it not tend to the efficiency of discipline if the punishment was not so severe as the punishment of dismissal for such an offense as that?—A. I think not. The only punishment a cadet fears is dismissal. That is the greatest hold we have on them, and when they know they cannot be dismissed for a dishonorable act the tone of the corps is lowered.

Q. You say there is no discretion, when you make charges against a cadet, but for the court to sentence him to be dismissed, if found guilty?—A. There are certain charges—for instance, conduct prejudicial to good order and military discipline—that do not require dismissal.

Q. Could you not charge them under that head, instead of conduct unbecoming an officer and a gentleman?—A. I could charge them that, but when Congress has designated a certain offense by one name we always call it by that.

Q. But when there is no discretion in a court but to dismiss, don't you often pass over certain offenses?—A. I think not. The superintendent has power, under the regulations, to inflict punishment without trial. He can make the cadet walk Saturday limits, and he can put them in light prison or dark prison, as he may choose.

Q. Has he ever punished what you call lying in any other way than by preferring charges and dismissal?—A. There can be no other punishment, for the good of the corps.

Q. Is there any other punishment?—A. There is not. My idea is that certain offenses can be punished here, but when a cadet commits any offense which is at all serious he should be tried by a court-martial. I think the cadets should be impressed with the idea that they are sent here for the purpose of letting the Government select from them who shall be its servants; that if they cannot come up to the standard of a good officer, now is the time to prune them off and send them back to their former avocations.

Q. But don't that system beget more or less perversity?—A. I think that carried out inflexibly is the only way to discipline the corps. I have never, in any case, done violence to my convictions of right in any case. Every case I thought deserving of trial I have invariably preferred charges.

By Mr. PACKARD:

Q. Are you quite sure there were any other reasons than what the members of the first class alleged at the bottom of their action?—A. I do not think there could have been any. I would like to have it clearly understood that this affair was the result of a sudden ebullition of feeling. You might infer that there was no discipline in the corps of cadets; I would like to have evidence on that point come from other persons than myself. This first class perform all their military duties in a very acceptable manner; they are very attentive to their duties, prompt in obeying orders, and soldier-like in every respect.

By Mr. SLOCUM:

Q. The case of Shortelle, who insulted Captain Clark, and who was tried, dismissed, and reinstated, occurred prior to your coming to the academy?—A. Yes, sir; and he was a member of a prior class. There has been here every desire to carry out the orders strictly; so far as the first class having disobeyed an order, or set their faces against orders, nothing of the kind ever occurred. On the contrary, as a rule, they have responded to every effort to place the performance of duty here upon the proper footing. If you will recollect, in your own time, there was a certificate required of the officer at every morning police inspection, that they had performed their duty properly. I had this done away with, saying that that was not the way to perform duty; that they should do it from a sense of honor. Since that certificate has been taken away I think the discipline of the corps equal to, if not better than, what it was before. If it was understood in the corps that every time a cadet committed a dishonorable act he should be dismissed it would tend to raise the discipline of the corps in a wonderful degree.

Q. Do you think that if that had always been the case the conduct of the first class would have been different?—A. I do not think that so large a number of cases of falsehood would have come up in so short a time, and that consequently there would have not been that strong feeling.

Q. Do you know anything about the difficulty between Woodruff and Hoyle?—A.

Yes, sir; it grew out of certain aspersions that Mr. Hoyle cast on Mr. Woodruff's character, and it originated in connection with the trial of Cadet Smith. Before this trial Cadet Hoyle was employed as an amanuensis, and he made some statement in regard to General Wilson's testimony, and defamed the character of Cadet Woodruff. These facts were presented to me by Cadet Woodruff, and I preferred charges against Hoyle for this defamation of character. Hoyle afterward stated that these remarks were founded upon a misunderstanding on his part of General Wilson's testimony, and he made a full retraction. This was perfectly satisfactory to Mr. Woodruff, and as I was satisfied that Mr. Hoyle had not intentionally done this thing I requested the charges to be withdrawn; but I did this only on the condition that Woodruff was fully satisfied with the amends that Hoyle had made.

Q. Do you believe that Hoyle was satisfied in the first place he had a good foundation for his statements?—A. Yes, sir. He was in this hall, and there was some conversation going on. I think that he mistook some words General Wilson uttered. At least I was fully satisfied that that was the case, and all the other acts flowed from that.

Q. When did this case occur?—A. Some time in August or July.

Q. Was Cadet Smith connected with it?—A. You remember the Smith letter? There was a court of inquiry in regard to this letter.

Q. Woodruff had befriended Smith, and for that Hoyle denounced him?—A. Yes, sir.

By Mr. PACKARD:

Q. Don't you think that has run through the whole of this thing?—A. I don't think it has had the slightest connection with it.

Q. Don't you think there was a feeling that Woodruff should be "cut" because he had befriended Smith?—A. That may have been the case.

Q. Hoyle admitted that he had lied?—A. No, sir; he stated that he believed fully, honestly, and conscientiously that General Wilson made this statement upon which all the subsequent part of the transaction was based.

Q. Did these two first-class cadets who were dismissed last summer for lying take any part in driving these other cadets away?—A. No, they are not here. They are suspended.

Q. How were Barnes, Flickinger, and Baird mixed up with this Smith affair?—A. Not at all.

Q. What side did they take in this controversy about cutting Woodruff?—A. I do not know anything about it at all. I understand that Cadet Smith has been practically isolated since he has been here. I do not think there was a single motive actuating the first class in driving away these cadets other than a desire to put the seal of condemnation on their conduct.

Q. It is perfectly evident to us, and must be to you, that there was something back of that affair.—A. I do not think there was anything under the sun behind it. They stated to me that in the other two cases the sentences had been mitigated, and the men would be thrown back upon them, and that they would have to be received.

By Mr. SLOCUM:

Q. Don't you think there is a feeling through the first class that they are safe from punishment through some cause?—A. No evidence of that has come to my knowledge.

Q. Don't they think they can escape punishment for any violations of regulations?—A. I do not think a great majority of the class rely upon it. There may be some that do. I think that a majority of the class do their duty. For a series of years back it has been the misfortune of the academy to have in the corps the sons of influential personages, and that if one of them stood at the foot of the class they were regarded, to use one of the expressions here, as a "tail-board," and that as long as they staid they would not be found deficient. That has existed for a number of years.

Q. It did not use to be so?—A. It did not use to be so. If a law could be passed making the discharge of a cadet obligatory upon the recommendation of the academic board that would increase the discipline of the academy very much; but when cadets feel that they cannot be turned back it has a very disastrous influence. I find by reference to my morning reports, which I now have with me, that on the morning of the 5th Barnes is dropped as a deserter. He does not appear again on the returns until the morning of the 11th, when he is marked "in arrest and joined from desertion." On the 7th Flickinger and Baird are marked "present in arrest."

WEST POINT, N. Y., *January* 28, 1871.

WILLIAM S. STARRING sworn and examined.

By Mr. ASPER:

Question. State your rank in the Army and position at the academy.—Answer. I am first lieutenant Second United States Artillery, and am assistant instructor of tactics, and in command of Company A, United States Corps of Cadets.

Q. What, if anything, do you know of the sending away of three cadets from the academy by the first class?—A. Cadets Baird, Flickinger, and Barnes were all placed

in arrest by General Upton; the last two for conduct unbecoming an officer and a gentleman, and the former for being absent without leave. They were placed in arrest on the 3d of this month, and on the next morning, on my going to the office, I found upon my morning report that two of them were absent. My first impression was that they had deserted, but soon after that I heard that the first class men had got together, and as a class had sent these men away.

Q. When was this?—A. It was in the morning, shortly after 8 o'clock.

Q. Before or after you made your morning report?—A. It was after I had received my morning report.

Q. Who makes the report to you?—A. It is made by the cadet captain.

Q. Who is that captain?—A. George B. Davis.

Q. Was he of the first class?—A. Yes, sir.

Q. Did he make the report that these men had deserted?—A. The report is signed by both him and the first sergeant.

Q. Who was the first sergeant?—A. William B. Whittemore.

Q. Was this report in writing?—A. Yes, sir.

Q. And in addition to that, is not a report made to you verbally?—A. On that morning report these two men were reported absent without leave.

Q. At the same time did you learn what had transpired the night before?—A. I did not until afterward.

Q. Who first reported it to you?—A. The first information I had was in an interview between the commandant and Mr. Wasson, commanding the first class, and Mr. Russell. They came up to explain to the commandant why these men had gone away.

Q. Do you know anything of your own knowledge about the transactions on the night of the 3d of January?—A. No, sir.

Q. You knew nothing of it?—A. No, sir; the first I heard of it was in the morning after they had gone.

Q. And after you had made your morning report?—A. Yes, sir. It was about the time I made my morning report.

Q. You first heard of it from General Upton?—A. I first heard of it in an interview between General Upton and two first-class men.

Q. What further did you have to do with these boys?—A. As soon as I found out that they had gone I sent for my first sergeant, and told him to take another cadet officer from the company and make an inventory of what property these men had left in their room, and then do the property up, and I would have it taken care of until we knew what action was to be taken in the matter.

Q. What next did you do?—A. I was sent by General Upton to Highland Falls to see if I could find them.

Q. When was that?—A. On the evening of the 4th.

Q. Was that the first attempt to search for them?—A. That was the first I knew of.

Q. What further connection did you have with the matter?—A. I came back from Highland Falls, stating that they were not there; that I had satisfied myself that they had gone to Peekskill, and asked if I should go there in search of them. General Upton said not until I received further orders. That was on the night of the 4th. On the night of the 5th I received directions to go to Poughkeepsie and see if I could find them.

Q. When did you go to Poughkeepsie?—A. On the morning of the 6th. I went up in the first train.

Q. Where did you find them?—A. I found them in a surgeon's office. Baird had written to General Upton for some of his effects, and gave his post office address. It was in the care of box No. 656, I think. I went to the post office and inquired who owned the box; and was told that Dr. Andrews owned it. I then went to a store near by, got a directory, and found where Dr. Andrews lived. I then proceeded to his house, and, on knocking, the door was opened by Baird.

Q. Who did you find beside Baird?—A. Flickinger was also there. Barnes, I understood, had gone to Jersey City.

Q. What did they say?—A. Baird opened the door, and I asked him if he was ready to go back, and without waiting for an answer I told him I was going back in the next train, and to be ready by that time. He said he didn't know about going back. I told him we would go back on the next train, and asked him what objection he had to going back. He said he did not know how they would be treated.

Q. What did he say about the treatment he thought he would receive on his return?—A. He didn't say anything about it at that time.

Q. What did he say at any time?—A. I think, in his letter, he said he would be treated to a coat of tar and feathers if he came back. He didn't say anything to me personally.

Q. Did they come back the same day?—A. Yes, sir.

Q. Did Flickinger say anything to you about the treatment he expected?—A. No, sir. Baird asked me what they would do with him if they got him back. I told him

I thought they would give him the choice of court-martial or permit him to resign. He said he wanted to resign.

Q. Had anybody said anything to you before you went away about their resigning?—A. General Upton had mentioned it casually. I do not remember how it came up. I think he stated that would be the thing, either court-martial or resignation.

Q. The boys were charged before they were sent off?—A. Before they were placed in arrest they were charged.

Q. What time did you get them back here?—A. About two or three in the afternoon.

Q. What was done with them when you got back?—A. They were sent to their rooms—the rooms that they had occupied before leaving, and instructed not to leave them unless they were sent for by some officer; I also told them not to attend to any roll-calls; that they could go to their meals with the guard.

Q. Were they sent for; and if so, how soon?—A. They were sent for very soon afterward by General Upton.

Q. What was said to them, then, about resigning, if you know?—A. General Upton asked Mr. Baird what he proposed to do. He replied that he wanted to resign. General Upton asked him if he offered his resignation of his own free will—if he made it voluntarily. Baird stated that he did. I think the General said that that was the best thing he could do—that he knew exactly the evidence against him, and how he would stand if brought to trial.

Q. Where were the resignations written?—A. In Mr. Baird's room, I suppose.

Q. How soon after he got back was that resignation written?—A. I think it was written the same afternoon.

Q. And when did they leave?—A. I do not think they left for three or four days after. I am not positive about that.

Q. They took their meals in the mess-room, under guard?—A. They took their meals with the cadet guard. They were under arrest. Going to the meals with the guard, I think, was a matter of choice with them.

Q. Why a matter of choice?—A. Because their other class-mates would not associate with them.

Q. Was it not from fear?—A. No, sir, I think not.

By Mr. PACKARD:

Q. When Davis reported the absence of these cadets——A. Please understand me. He sends in to me a morning report according to a certain form. On that report appeared these two cadets as absent without leave. He did not report to me personally, but only in this way, officially.

Q. There was nothing said about their being forced to leave?—A. No, sir; I think not.

By Mr. SLOCUM:

Q. Do you know of any cadet that has been reinstated in the academy after being dismissed through the influence of another cadet?—A. I don't know that I can answer that question.

Q. Do you know of any case to your knowledge?—A. No, sir; I have heard so from rumor.

By Mr. ASPER:

Q. Do you know the boys Baird and Flickinger?—A. Yes, sir; they were in my company.

Q. What was their standing here before they were sent away?—A. Baird I regarded as a quiet, inoffensive, and a good boy. Mr. Flickinger I did not think so much of. I thought him variable and uncertain.

Q. What offenses, if any, had they been guilty of up to this time?—A. You mean other offenses?

Q. Yes, sir; in reference to their standing—anything that is noteworthy?—A. I do not know; that could be ascertained from the superintendent's office.

Q. So far as you know, they were boys in good standing?—A. Baird was.

Q. Will you produce to this committee the morning report of the 4th, from the cadet officer?—A. Yes, sir.

(Lieutenant Starring subsequently appeared before the committee with his morning report book, and stated that Baird and Flickinger were placed in arrest on the 3d; on the morning of the 4th the following remark was entered on his morning report book: "Privates Baird and Flickinger, from duty to arrest;" on the morning of the 5th is entered, "Privates Baird and Flickinger, absent without leave;" on the morning of the 7th, "Privates Baird and Flickinger, returned from absence without leave to arrest;" on the morning of the 11th, Discharged by order; resigned, Privates Baird and Flickinger.")

Q. That report was made to you by Cadet Davis?—A. Yes, sir.

WEST POINT, N. Y., *January* 28, 1871.

WILLIAM BAIRD sworn and examined.

By Mr. ASPER:

Question. State your age and residence.—A. I am nineteen years old. I do not know that I can give any particular place as my residence, unless it be Geneva, New York. My father is in the Army.

Q. Go on and state in your own way all that you know in relation to the recent transactions at the academy, commencing at the beginning and running through the whole affair. Before you proceed, I will say to you that unless you desire to do so, you need not say anything that will subject you to any court-martial or punishment here, as I have been informed that you are to be reinstated.—A. On the 2d of January we had relief from quarters all day, and had no duties after 9 o'clock; so I went down to Highland Falls with two classmates, and got back in time for dinner, and one of them brought up some liquor for another cadet. After supper the first class had a hop, and the second and third classes had permission to visit in barracks. Our class did not have permission, but there was so much irregularity in barracks that I was not sure that the sentinels would inspect if they would not be able to account for the absentees, because some of the rooms would be empty and others would have visitors. I was under the influence of liquor that afternoon. Any member of my class would testify to that. I asked my room-mate if he would make it "all right" if I went out. He seemed to be willing to do so. I did not know whether sentinels would inspect, and if they did I thought perhaps he could arrange it so that my absence would not be discovered. I went off soon after the sentinels were put on, before they inspected, and went down with a classmate to Highland Falls, and met there two or three cadets of the other classes; we all came back together and got in just after tattoo. When I got in my room I found five or six cadets there; they told me that I had been reported absent, and one of them advised me when the officer of the day came in just to say that I would make my report to the commandant in the morning. He came in a little while afterward, and I told him I would make my report to commandant. I did not know what I would have to say; whether I should state I was off cadet limits. Nobody knew I was off cadet limits, and in making this report a cadet is not required to criminate himself. I wanted to have one of the first class to write it out for me; they are supposed to know more of the rules here. I knew I would be put in arrest. The next day after I came out of examination I was put in arrest. I found my room-mate was in arrest when I got back. In the evening I sent one of my class to one of the first class, whom I wanted to come and help me write my explanation, and be my counsel when I was tried. That is the custom here generally. He went up to the quarters of the first class, and they didn't want to let him in; they told him he had better not come in, as there was a meeting of the first class that evening. He left word for this first-class man to come and see me the next morning. He said the first class were rather mad about this thing, and that our class would probably cut Flickinger and Barnes, but he didn't think they would cut me, and were willing to go on pledge for me. I thought we would probably be tried, and that I would not be more than suspended at most. That night I was woke up about 12 o'clock by five or six cadets coming in my room with lanterns. One of them came to my bed and told me to get up, and then said the same to Flickinger. I got up and saw how it was. I saw they were all first-class men.

Q. State their names?—A. Cadet Davis spoke to me. I think he was the only one that spoke to me personally in the room; several were speaking. Davis said, "You have been lying." I said I had not. He replied, "Never mind; get up." Cadet Grant was in Flickinger's alcove. There were perhaps a half dozen in the room; it was pretty dark. I could not find my citizen's clothes; they said, "Never mind, wear your uniform." The great idea seemed to hurry us all they could. I supposed they were afraid they would be caught. I first could not find my stockings, and they wanted to hurry me off without them. I found them afterward, and they then took Flickinger and myself around to Hoag's room; there were over a dozen there. Some one said, "Is it all right over in C company?" The reply was made that it was. They then took us down stairs and told us to go on. I don't think they had hold of us, but they were close around. I saw another party going across the area. I suppose they had Barnes with them. They told us to start on double time. As we passed the mess-room I saw several there who seemed to be watching for the authorities. We started up the road toward the ————————. Going up the hill Cadet Brush had hold of my arm on one side. There seemed to be a great crowd; I should judge nearly the whole class. Flickinger and Barnes were both ahead and cadets had hold of them. They made us run until we got to where the road joins near Fort Putnam. They stopped, and I got into the crowd and recognized several cadets.

Q. Give their names?—A. I saw Cadets Roe, McKenzie, and Wyatt. Wyatt approached Flickinger (they are both from the same State) and said, "Flickinger, I am ashamed of you." I don't know what else he said; I know he said that. Several said,

"It is the first class who are doing this, we want you to understand, and if you come back again you will be tarred and feathered." I could not say who said this; they were all talking together. They said, "Don't you dare to show yourselves at reveille;" and they told us to run. I think they had stones in their hands, or something, but nothing was thrown. We ran a little distance and then walked on slowly. We went down to the Falls and got a place to sleep there. We were afraid to come back here in the morning, so we both wrote letters up here. Flickinger wrote to Wyatt and I wrote to the officer of the day. I asked him to send me my underclothing and my watch, which I left hanging in the alcove. I sent a boy up with it and he returned about 12 o'clock with a note stating that our trunks would be sent to us, and they asked where we wanted them sent. I told them to send mine to Highland Falls. Barnes wanted his sent to Jersey City. When they sent us off they gave me three dollars and some cents, and gave Flickinger seventeen dollars and told him to divide it among us. Flickinger said also that Cadet Grant gave him a coat and pair of pants. Some time the next day I got a letter addressed to me on the outside and to all three of us in the inside, and saying, "We have strong evidence against every one of you; don't come back to the Point," or some such words. It was signed by the first class.

Q. Have you that letter?—A. No, sir; I lost it.

Q. Was that the only signature to it—first class?—A. Yes, sir; there was another letter to Flickinger that was signed by Mr. Wyatt. It was more of a private letter, but it advised him to go away. I don't remember exactly what it said. I think he has that letter. While we were staying there we saw an officer, Lieutenant King, ride by. We thought they would order us back, and we were afraid to come back. We went around Fort Putnam and crossed over the river about 4 o'clock in the afternoon. Barnes took the train to Jersey City, and Flickinger and I started up to Poughkeepsie. We thought we would stop there a few days and write a letter from there to have our trunks sent there. We thought we would not be allowed to go back with this thing hanging over our heads. We started for the hotel near the depot, and on our way there met a classmate who had been dismissed this fall. He took us to his house, and took supper there, and staid over night. We explained to him all that had occurred, and he advised us to write to the authorities. Flickinger wrote a letter the next day, and we both signed it. It was addressed to the superintendent and stated all the facts. I wrote more of a private letter to General Upton, asking if I could not be allowed to resign without coming back, as I did not know how they would treat us.

Q. Who do you mean by "they?"—A. I mean the cadets. I knew we would be tried if we came back, and I thought they might carry out some of their threats while waiting the trial. I got a telegram the next day from General Upton as follows:

"WEST POINT, *January* 5, 1871.

"Remain at Poughkeepsie until you receive a letter advising you what to do.

"E. UPTON."

We got this telegram the day after we sent this letter to General Upton. The following morning the young man with whom we were staying came in and said he saw Lieutenant Starring inquiring at the post office about the post office box which we had given in our letter to General Upton, and he thought he was looking after us. After a little while Lieutenant Starring came up. He treated us very kindly; said the authorities had got our letters the day before, and he had been sent up after us. He did not say at first to bring us back, but asked if we were willing to go back. I said I was willing to do whatever the authorities required. He said General Upton wanted us to go back with him. We promised to meet him at the depot at one o'clock, which we did. Coming down in the cars we asked him how we would be received, and he replied that we would consider ourselves under arrest, the same as we were before, and go to our meals with the guard. He stated the first class had come forward the next day and acknowledged all they had done. I asked him whether we could get away at once, and he said our resignations would probably be accepted, and we would not have to be there a week, at most; perhaps not over three or four days. I asked him if he didn't think it was the best thing for me to resign. I think he said yes; and I said "I suppose if I do not resign I will be dismissed, if I am tried." I thought if I were dismissed I would be allowed to be reinstated. He said, "Yes, but if you should not be, it would not be very pleasant for you in the corps," meaning that the cadets would not treat us very well We reached here about four o'clock in the afternoon, and went over to the officer in charge of the guard-room. I think Lieutenant Marshall was in charge, and he told us to consider ourselves under arrest. We had scarcely got to our rooms before we were sent for by General Upton. We found him in his office, and he spoke to me first, stating that it was not necessary for me to write a letter down stating the facts, as the first class had acknowledged it. It seems that some of them knew about this arrangement with my room-mate, and preferred charges against me for absence without leave, intoxication, and prearrangement with my room-mate. Before this the only charge against me was absence without leave. General Upton stated they

had conclusive proof against me, and asked if the charges were not true. I said I thought they were. I forget the exact words he used, but he said something seeming to imply that I would like to resign. I asked him if I could resign without getting father's consent. I added that it would take a long time to get it, as he was in Texas. He said he would send the charges on with my resignation, and that perhaps I would be allowed to resign. We then went to our rooms and sent for two blanks on which to write our resignations. The officer of the guard told us that we would not be required to go to roll-call. We had nothing to do with the rest of the cadets; we did not go to the meals or perform any duty. We made up our minds that in any event we would not be allowed to stay there. Coming down on the train Lieutenant Starring told me, "You will not be molested, for the first class have been cautioned not to interfere with you;" but we didn't know whether this caution would be enough. When we got back and were in our rooms, either that evening or the next morning, we heard some cadets go by and say, "These men have been here long enough." That was the next day, when they found we were not going off right away. One of our class came in that afternoon and told us that our class had had a meeting, and that some of them were in favor of cutting us, but that a few of my friends had not gone back on me. I think he said the second class published an order in the mess-hall, saying that they had approved the conduct of the first class, and I think they gave out that they would not have anything to do with us.

By Mr. SLOCUM:

Q. Published an order in the mess-hall?—A. Yes, sir.

Q. Is there not an officer in charge of the mess-hall?—A. Yes, sir; perhaps they published it through him. I asked some others of our class about this, but they did not seem to know anything about it. It may be a mistake. At any rate, whether they published an order or not we saw by the way they acted that they would be afraid to come near us. Another cadet of my class came in the next morning; he had to slip in pretty quietly. He shook hands with me and said, "I am just as good a friend of yours as ever, and so are half our class; but the first class would make it too hot for us if we came round." I told him that I didn't think hard of them because they didn't come around; that all we wanted to do was to get away, and that there was no use in getting any of our class in trouble. The next morning the commandant sent for us and said that our resignations would be forwarded right away, and, said he, "I apprehend all you want is to get away legally." I said, "That is all." He asked, "This resignation is not compulsory?" and I replied that it was not. I thought it was the best thing I could do, and all the officers seemed to think so too. General told us we could make application for leave of absence, and go to our homes, and our resignations, if accepted, would be sent to us there. We made application for leave, but did not hear anything from it. We asked the officer of the guard whether it would be granted, and he said it could not be granted until they could learn from Washington whether our resignations would be accepted or not. We did not know until the Tuesday following that our resignations had been accepted, and we got off that day.

By Mr. ASPER:

Q. How did the idea of resigning come in your head; who suggested it?—A. When we went up to Poughkeepsie we thought we could never dare to go back, as they might carry out those threats. We thought we would be dismissed, and not allowed to resign.

Q. Who gave you the first idea about resigning?—A. I wrote in this letter and asked whether we would be allowed to resign. On our way down in the cars Lieutenant Starring said we would probably be allowed to resign, and when we got back here General Upton asked us, as I have related, if we did not want to resign. He said that all these charges could be proved, and I thought if we did not resign we would be dismissed.

Q. What threats did the first class use?—A. They said they would tar and feather us if we came back.

Q. Did they say anything about your resigning?—A. They did not say a word about that. They did not want us to come back.

Q. What reason had they?—A. When they came in the room they said we had been lying. I denied it.

Q. You say you put in your resignation the first afternoon after your return, (Friday afternoon.) Did General Upton send for you the next morning or did you go to him?—A. He sent for us.

Q. Who suggested that you should ask for a leave of absence to get away from here?—A. He did. He said he would see that it was forwarded, and gave us to understand that it would be granted.

Q. Did he say why?—A. He didn't say why.

By Mr. SLOCUM:

Q. Who came in your alcove and woke you up?—A. Davis. There were two or three who came over. I only remember him.

Q. Who went into Flickinger's alcove?—A. He told me it was Grant. He was in the room, I know.

Q. Did Grant say anything to you direct?—A. No, sir. He was the one that woke up Flickinger. When we returned, we fell in with the guard, and Cadet McKinney told the officer of the guard he ought to take off our clothes and give us a coat of tar and feathers. There were two other cadets who were tried some time ago for lying, and the first class wanted us to cut them and were down upon us because we didn't. I believe the second class shared in this feeling.

Q. What part did you take in reference to the cutting of those cadets?—A. I took no part whatever; I said nothing about it. There was another cadet dismissed from our class, and they thought we ought to cut him for what he had done.

By Mr. ASPER:

Q. Is this the letter you sent to General Upton?—A. Yes, sir.

Q. Is that your writing?—A. Yes, sir.

Q. Is that the envelope?—A. Yes. [Envelope bears address, "Gen'l E. Upton, U. S. A., West Point, N. Y." Postmarked, "Poughkeepsie, Jan. 5."]

POUGHKEEPSIE, NEW YORK, *January* 5, 1871.

DEAR SIR: I don't know whether, under the present circumstances, I am justified in writing this letter to you. But Mr. Flickinger and myself have both written to the superintendent, explaining to him that we did not desert, but were forcibly taken from our quarters by the members of the first class during the night, and were driven off the Point with the assurance that if we ever returned we should be tarred and feathered, if not worse treated. So we have not dared to return, knowing, in the first place, that we should have to be incarcerated for breach of arrest; and in my case, although deterred partly from returning by fear of maltreatment, I shrank from doing so chiefly for my father's sake, as I feared the whole affair would be made public, and it would seem that I had been guilty of such a dishonorable action that the cadets would not allow me to stay at the academy.

As far as my offense is concerned, I feel confident that I was not intentionally guilty of a dishonorable act. On Monday evening, being quite intoxicated, and knowing that other cadets of different classes were going off limits, I thought that I would run no more risk than they; and not being sober enough to reason about the matter, I thought Mr. Flickinger could perhaps arrange matters in the same way they had. So I started off, although I did not say a *word* to him that I *recollect* of when I went off, having had some conversation with him about it previously. The class were all willing to go on pledge for me, although I don't know whether this would have had any effect in mitigating my sentence.

I have had no one to advise with me, and both Mr. Flickinger and myself are unprovided with the proper citizens' clothing for this time of year, and also have only money enough to maintain us here for a short time. My father and mother are in Texas at present, and knowing your friendship with them, I have taken the liberty to ask you to use your influence to have me allowed to resign or even to be dismissed, as I had no desire nor intention of thus bringing disgrace on myself and family by deserting. If you can do anything for me or advise me how to accomplish either of these purposes I should be very much indebted to you. Some members of the first class wrote to us at Highland Falls while we were waiting there that they would have our trunks, &c., sent to us at once, but knowing that they might be unable to accomplish this, I have thought it better to write to you, asking, if possible, that they may be sent here as soon as possible, and that if my accounts can be settled I might have the money sent to me instead of my father, he being in Texas engaged in inspecting some remote posts, and until I can have my letters sent to me from the Point I do not even know his address or that of my mother.

I suppose the proper method for me would have been to have returned to the post, but knowing the first class were bent on preventing this, and fearing that if I did return the whole affair would be made public, and then, perhaps, after having undergone this punishment at their hands, I would after all be dismissed by the proper authorities, I thought it best to write and ask you if I couldn't be allowed to resign, or even be dismissed, without having to return, run the risk of maltreatment from the first class, and then suffer this punishment.

My address is care box 656, Poughkeepsie, New York.

Very respectfully, your obedient servant,

W. BAIRD.

General E. UPTON, *United States Army.*

Q. How did you know that cadets were going to Highland Falls on the night of the 2d; you say several cadets were going down?—A. One was going down with me. I spoke with one who was going; I met two more there; I didn't know they were going

there until I saw them there. There was only one of my classmates there; the others were of the second and third classes.

Q. All out at the same time you were?—A. Yes, sir.

Q. The same time of night?—A. Yes, sir.

Q. Before taps?—A. Yes, sir.

Q. What was done about their absence?—A. Nothing at all. They had a better chance to go than we had. Our class had not the privilege to visit that evening. We didn't know whether we had privilege or not; though I don't suppose we took much pains to ascertain.

Q. What difficulty, if any, had you with Cadet Shortelle?—A. None.

Q. Any unpleasantness?—A. No, sir. Flickinger told me the next day he did all he could for me, that he answered all right; the sentinel came around, and when the corporal of the guard came, and asked him if it was all right, he did not answer at first, but afterward responded "All right." He told the sentinel that it was all right, and there was no use in asking any more questions. He did ask questions, and it came to the ears of the officers of the guard, and he is on honor to report all such things.

WEST POINT, N. Y., *January* 28, 1871.

Captain ALEXANDER CLARK sworn and examined.

By Mr. SLOCUM:

Question. State your rank in the Army, and position at this academy.—Answer. I am captain Fifth United States Cavalry, and assistant instructor of tactics at the United States Military Academy.

Q. Is it within your knowledge that any of the Army officers at the academy knew of this affair prior to its taking place?—A. No, sir, it is not. I think I can definitely assert that no commissioned officer had the slightest knowledge it was going to take place.

Q. Is the act generally justified by the officers here?—A. No, sir; not in a military point of view.

Q. There was a young man by the name of Shortelle who was court-martialed upon charges preferred by you?—A. Yes, sir.

Q. When was that?—A. About a year ago.

Q. What was the sentence of the court?—A. The sentence of the court, if I remember rightly, was that he should be suspended until the next academic year, and then go on with the next class below him.

Q. Was the sentence remitted?—A. Yes, sir, the sentence was remitted. The young man was absent only a few days.

Q. On whose recommendation was it remitted?—A. That I cannot say. The order came from Washington.

Q. I want to ascertain, if I can, what influences are brought to bear to relieve cadets from punishment at this academy.—A. I don't know how that was. The order stated that the cadet's offense had its provocation in the excited manner of his superior officer. I made an application to the Secretary of War for redress on that point. It was referred, I think, to the President, and returned with the indorsement that he declined to take any further action in the matter.

Q. Was there anything in the evidence showing such to be the case?—A. No, sir; on the contrary, I could have produced evidence to show that such was not the case.

By Mr. ASPER:

Q. In your answer to the question whether the authorities justified the conduct of the first class, you say not in a military point of view. Please explain what you mean by that.—A. We think it is conduct prejudicial to military discipline, and that, of course, we cannot do otherwise than condemn it.

Q. As individuals, how do you feel?—A. I still condemn it as a wrong action, though I think the motive that gave rise to the action showed a high sense of honor on the part of the first class.

Q. What do you mean by motive?—A. I think their motive was to get rid of men who had been guilty of falsehood.

Q. But here are boys who had never been charged with anything of the kind.—A. Who are they?

Q. This boy Baird.—A. Previous to that time his conduct, I believe, was good.

Q. There were no charges against him?—A. I don't know whether, at this time, the charges had been made out or not. Still, they were subject to charges, and charges were either made out by this time or very soon after.

Q. Were they under arrest at the time this first class took them from the place?—A. Yes, sir.

Q. Were they not reported as deserters after that?—A. None of them belonged to my company. I have never seen the company reports. I believe they were.

Q. Are not the authorities capable of punishing all derelictions of duty and violations of regulations?—A. Undoubtedly they are.

Q. Is not the discipline very strict and severe?—A. Yes, sir.

Q. In every respect?—A. Yes, sir.

Q. Then what possible motive could there be in the matter?—A. I think that these young gentlemen labored under a very mistaken idea. There had been a case only a little while before, in which two cadets had been tried by court-martial for false statement, and had been sentenced by the court to be dismissed the service; the sentences were afterward commuted to a return of these men at the expiration of this academic year, and to go on with the class below.

Q. Do you know upon whose recommendation that was done?—A. I could not say; we never see any of the papers upon which it is done.

Q. These boys have not yet returned?—A. No, sir; they go on the 1st of July next.

Q. What class did they belong to?—A. The fourth class. There were two boys in the same situation in the first class. To further explain what I have said, I will add that I suppose that the first class inferred that these three young men would be sent back in the same way.

Q. You know nothing about that?—A. Oh, no, sir. It was merely the hot-headed action of a parcel of boys—the work of an instant.

WEST POINT, N. Y., *January* 28, 1871.

GERRITT H. SMITH sworn and examined.

By Mr. ASPER:

Question. State your residence and connection with this case?—Answer. I reside in Geneva, N. Y., and am uncle of Willie Baird, and brother-in-law of General Baird, his father.

Q. Go on and state all you know about this affair, what you learned, how you learned it, and what you did.—A. On the morning of the 10th of January, I came down from my residence, about a mile and a half from the village, to the post office, and there found a telegram from General Baird, saying: "Willie is in trouble; look after him; his mother comes North immediately." On the Saturday previous, I had seen in the Rochester paper an item that three cadets had deserted from West Point, and on the following Monday I saw a paragraph that they had returned, no names being mentioned in either case. I hastened home, and then immediately returned, as I had but fifty minutes to reach the next train. Before starting, I stepped into the telegraph office and sent a dispatch to Major Kendrick at the academy, an old personal friend of General Baird, saying, "Where is Willie Baird? Answer at the Delavan House." I thought that if I telegraphed him I would receive a reply quicker, as I supposed Willie was in punishment or in arrest, so that no telegram would reach him. I reached the Delavan House about midnight, and found a telegram from Major Kendrick: "Willie is still here. I learn that his resignation has been accepted"—the first news I had that he had resigned, or would resign. I took the next train from Albany; reached here about ten o'clock; had some difficulty in crossing the river; got over finally; went immediately to the superintendent's office, sent my card in by the orderly, and obtained an interview. I did not know General Pitcher; had never seen him before. He received me politely, and I said to him, "I am brother-in-law to General Baird, and uncle of Willie Baird, and I have come to learn all the facts about this affair." He said it was very painful matter, and expressed himself very feelingly for General Baird and the mother of this boy. I told him I knew nothing beyond what I had seen in the papers. On my way from Albany I had seen in the New York Tribune of that morning an account of the boy's running off. He said that Willie had been guilty of intoxication, and, I think, false report. I said, after hearing his remarks about it, which were about the evil tendency, &c., of this conduct, "General, this is not unprecedented. I have known West Point for twenty years; know Army officers who were cadets; I have heard of Benny Haven's and Buttermilk Falls. While that does not justify my nephew's conduct, it seems to me it might have over with." He said that "that was not all; that the intoxication might be got along with; it is the false report," or lying, or words to that effect. I stated to him, "I understand that Willie has resigned. I am very sorry that he has resigned. I would not have let him resign until we could have got word from his father. I told General Pitcher that this was a great blow to his father and mother, particularly to her, as he was a boy who had never given his parents a pang; who has been brought up properly and judiciously, and the last boy in the world who would go astray. We are all liable to err, and I would as soon believed my boy ten years old would get in a trouble of this kind. I then asked him what punishment was to be inflicted on this first class. He said, "I have issued an order on the subject." "Is that all the punishment the first class will receive?" I said. He replied that he did not know. I asked him then who the power was that would punish them if they are to be punished, and he informed me that the Secretary of War was the person. "Well," says I, "that seems to me pretty harsh

treatment to take three young boys out of their beds a cold, inclement night—pretty rough treatment." "Mr. Smith," said General Pitcher, "no violence was used; bear in mind, no violence was used. I don't uphold the action of the first class; it was wrong, it was improper; but I take into consideration the motive, that was meritorious." I think our interview ended there after some remarks of a general character. I afterward saw Major Kendrick, and after some conversation with him I sought the commandant. I found him and introduced myself, and explained to him the relation that existed between myself and Willie Baird. He said to me, "This is a very painful duty." I said, "Yes, sir; I have come to learn about Willie Baird." After what I thought was a moment's hesitation, as his manner was such, he said: "Do you wish to know all?" "Yes," says I; "I wish to know all the facts in relation to Willie Baird; I want facts—everything that was said or done." I supposed that some terrible disclosure was to be made. He said the charges were for intoxication, lying, or false statement. He then told me how important it was for an officer of the Army to be the soul of honor and to be truthful. I told him that no man had a higher appreciation of truth than I had. I asked him if it was not pretty harsh treatment. He said he did not justify the first class—these were his words; but that this fourth class had been a pretty bad one; that there was no class feeling about them; that they would go off in squads together; and did not seem to have any cohesion. He dwelt on the statement that lying was a vice that must be put down. He then branched off, and said he was sorry for the father and mother. Pitcher acted as though he was scared to death all through his conversation with me. It seemed as if he was transacting this business over the wires with the authorities at Washington. He didn't look as if he was willing to take hold of this matter himself; while General Upton seemed determined, and censured very severely the action of Willie in lying. He stated that Willie's associations had been bad. I stated to him what a surprise it was to us all, and he replied that "Willie had been associating with Mr. Barnes, who was a very low fellow, and I am very sorry that he has associated with him." Major Kendrick also told me that he associated with Barnes, and Barnes was a bad boy. Barnes was about undergoing his January examination. I supposed he had left, but General Upton told me that he had not; that if a man was under sentence they would go through with the routine, and pay no attention to anything else; and that he would be very likely found deficient on this examination and got rid of in this way. I conversed with Professor Bartlett, and he expressed great sorrow on account of poor Willie's father and mother, and bore testimony to his good conduct in the academy. That was about the substance of all that transpired here. I went to Boston, got my nephew, brought him home to Geneva, telegraphed his father, and received a dispatch from his mother at Savannah, on her way to Washington: "Bring Willie to New York at once; you will probably be both called to go before the committee."

WEST POINT, N. Y., *January* 28, 1871.

Cadet GEORGE B. DAVIS sworn and examined.

By Mr. ASPER:

Question. State your age, residence, and position here.—Answer. I am 23 years of age; reside in Springfield, Massachusetts, and am captain commanding Company A, Battalion of Cadets.

Q. We desire you to state what was done by you and others on the night of the 3d of January towards Cadets Baird, Flickinger, and Barnes; what action your class had prior thereto, and all that occurred.—A. As to the exact time my memory would not serve me to swear, but on Monday, the 2d of January, we had certain privileges extended to us. We had no recitations, and had the usual liberties granted on holidays of release from quarters during the day. At night, the first and second classes, I think, had permission to attend a hop, the third class had permission to visit in barracks, and the fourth class had no permission at all, as their examination commenced the next morning. Mr. Baird and Mr. Flickinger are room-mates, and it was ascertained that during that afternoon and evening Baird had been to Buttermilk, and had agreed with his room-mate, Mr. Flickinger, that he (Flickinger) should report him all right to the sentinel, while he, Baird, was absent at Buttermilk Falls. Flickinger did so report all right, and Baird returned some time in the evening, I think about nine o'clock. It was brought to the notice of the officer of the day during the evening that Mr. Baird was not in his quarters, and Mr. Flickinger was asked about it, and why he had reported "all right." To this he gave a very unsatisfactory statement—a statement which was false and with evident design to deceive, and the matter rested until the next day. On that same night, Mr. Barnes, during, I think, the third relief, which would be some time not far from eight or nine o'clock, left his room also, reporting "all right" to the sentinel, and then went out and crawled into the window on the ground floor of Mr. Flickinger's room, and visited there until after the sentinel was relieved. These circumstances were all developed the next day, when we found what had been done; that

they had been making and conniving at the making of a false report to the sentinel. We called together a meeting of the whole class, and talked the matter over.

Q. At whose request did you come together?—A. It did not seem to be anybody that caused the class to come together. Mr. Nave was the officer of the day, and he was more cognizant than anybody else of the circumstances, and we met at his room. I do not know that any one suggested it. It was so important a matter that it would not require any special canvassing. It was talked of by everybody the entire morning.

Q. Tell us about the meeting; whether you organized or not.—A. We all got together, and stood about and talked it over. At the first meeting we had no chairman. We spoke of the importance of the matter—that here were three men who had been making a false report to the sentinel; in other words, that they had been lying, and it was something, if passed over, must spread, and so it was decided that we should put them off that night. The whole class met again in the same room.

Q. At what time?—A. I think it was after four o'clock.

Q. What day was that?—A. It was Tuesday, the 3d.

Q. Was it before or after the publication of these orders of arrest?—A. If the order was published, it must have been published at parade. This is some 20 minutes after 4.

Q. Was the meeting held before or after parade?—A. The parade was at sunset, which was very soon after 4, and we had the meeting right after 4. We might have had it after parade.

Q. What did you do at that meeting?—A. At that meeting it was decided to send them away.

Q. Did you have a chairman at that meeting?—A. I think we did.

Q. Who was the chairman?—A. I am not certain, but I think it was Mr. Hoag.

Q. Did you appoint a committee to send them away?—A. No, sir; we decided that the whole class should be divided into three committees, one to wait on the cadets, another to provide them with clothing and money, and another to inform what the state of affairs was.

Q. That was in the evening about 4 o'clock?—A. Yes, between 4 and half-past 5.

Q. And before the parade?—A. My impression is now that it was after parade.

Q. After the orders were published?—A. Yes, sir.

Q. What did you do that night?—A. That night we met together just before 12 o'clock, went to their rooms, and arrested them.

Q. What part did you take in that matter?—A. I was in one of the committees. I went to Baird.

Q. Personally?—A. Yes, sir, and waked him up and told him the state of affairs; that he had been lying and must go away; and directed him to get up and put on his things. All the others were told the same thing, and within a very few minutes they got up and put on their citizen's clothing, and if they had not enough we gave them articles of clothing. We then took them as far as cadet limits on the back road leading to Highland Falls, and gave them money amounting, I think, to somewhere in the vicinity of $60, all we had, and asked at the same time to what place they wished their trunks and such balance as might be due them from the Government sent. They then went on to Highland Falls, and we returned to the barracks. Before they left we told them that they had been lying; that the first class was doing this, and that was the way we treated those who lied. We were only gone about twenty minutes, possibly less.

Q. What further did you do to these boys?—A. Nothing. They wrote us from Highland Falls, telling us to send their trunks to Peekskill, I think, and we made arrangements to do so, and then we received another letter to send them to Poughkeepsie. Lieutenant Starring went up there and brought them back, and they submitted their resignations.

Q. What threats did you make to these boys when you let them go on the hill?—A. We told them that if they came back they would be severely dealt with. Somebody said they would be tarred and feathered, and others made other threats.

Q. What violence was used toward them?—A. Not any; they were not harmed.

Q. At whose instance were they dressed in citizens' clothes?—A. Nobody in particular; it was considered proper that they should be dressed in that way.

Q. You directed what they were to put on when you took them off?—A. Yes, sir. Barnes and Baird had a citizen's suit hanging up in their rooms. Mr. Flickinger had not, so we gave him a hat and coat.

By Mr. SLOCUM:

Q. Are not citizens' clothes taken away from the boys when they come in?—A. They are, but they usually smuggle in clothes in the barracks. It was not known to the authorities that that clothing was in the barracks. Mr. Baird, it appeared, had gone down to Highland Falls.

By Mr. ASPER:

Q. How did it appear?—A. It was known. Any one that makes a practice of going down to Highland Falls, is generally known.

Q. What violence was used when these cadets were sent off?—A. Not any.
Q. Were they taken hold of?—A. I do not think they were.
Q. The class was divided into three squads?—A. Yes, sir.
Q. Each having a particular duty?—A. Each having to attend to the duty of arresting one cadet, and explaining to him what we were doing and why we did it, and to supply them with citizens' clothes and money.
Q. The regulations did not permit you to be out of your quarters at that time o night?—A. No, sir; except necessarily.
Q. About what time did this occur?—A. About 12 o'clock.
Q. How long were you absent from your quarters?—A. I think altogether about a half an hour. The whole matter was hurriedly gone through with.
Q. You knew, did you not, that these boys were under arrest and under charges?—A. We knew that they were placed in arrest.
Q. Did you not know that there were charges preferred against them?—A. We did not.
Q. Were not the charges read at parade on that evening?—A. Mr. Baird was put in arrest for absence from quarters; Mr. Flickinger and Mr. Barnes for making false report.
Q. That was known to the class?—A. Yes, sir.
Q. These charges were of such a nature that if the men were tried by court-martial they would be dismissed?—A. The sentence of court-martial in the case of Flickinger and Barnes, reasoning from analogy, would have been dismissal, but the probable result after the action of the Secretary of War would have been six months' suspension.
Q. But how could your action in sending the boys off change this result?—A. We reasoned that by sending them off, they would not return; it was a mere expression of opinion on our part.
Q. You thought your conduct toward them would be in the nature of an intimidation—that after that they would not wish to return?—A. It would create a sentiment against them; we did not wish particularly to intimidate them.
Q. Or force them to resign?—A. No, sir; we did not suppose they would come back.
Q. How many of the class disavow this conduct?—A. I think only two. There were four, I believe, that were not concerned; one was in hospital with a broken leg, one, the officer of the day, who was in his quarters, and two others.
Q. The two others disapproved the act?—A. I do not think they did; they were excepted because they were not concerned. I really could not say whether they went up to the commandant and said they had nothing to do with it. I only know they are excepted from the order punishing us.
Q. Were all the other members of the class present at the meeting and take part in the arrangements that were made?—A. They were all there or constructively there.
Q. Were they all engaged during the night in going to the rooms or in carrying out the different parts assigned to them in the transaction?—A. Yes, sir.
Q. Were not two of these boys in your company?—A. Yes, sir; Baird and Flickinger.
Q. It was your duty to report every morning whether they were present or absent?—A. Yes, sir.
Q. What report did you make of these boys on the morning of the 4th of January?—A. They were reported absent without leave.
Q. Now, at the time you made that report, did you not know what had transpired, having taken part in it, and didn't you know that that was not according to the fact?—A. My report was a mere formal report; the commandant was fully informed by the class of all that had transpired.
Q. You meant in this report that they were absent without your leave?—A. No, sir; I have no authority to grant leave.
Q. But you made your report in form?—A. Yes, sir.
Q. What statement, if any, did you make to the commandant in reference to this transaction?—A. I made none; the officer of the day is the first one whose duty it is to bring it to the notice of the commandant.
Q. Did you make any statement to the officer of the day?—A. They were reported to me as absent. I reported them to the officer of the day as absent, and he reported them to the commandant.
Q. Who was the officer of the day?—A. Mr. Mott.
Q. Who relieved him?—A. I do not remember.
Q. Was not Mr. Mott officer of the day on the night the transaction occurred?—A. Yes, sir.
Q. He would be relieved at eight o'clock in the morning?—A. Yes, sir.
Q. Mr. Mott knew nothing of this affair, so far as you know?—A. No, sir; he was very much surprised when he heard of it.
Q. You studiously attempted to keep this from him?—A. Yes, sir, and did so.
Q. Mott would make his report on the morning of January 4th?—A. Yes, sir.
Q. His report was according to the fact?—A. All he knew was that they were absent without leave.

Q. The officer of the next morning would also make note of it in his report?—A. He would not make any mention of them. They are only reported on one morning by the officer of the day.

Q. No further report is made until they are taken up?—A. We receive orders, after a certain time, in the company, to either drop them or make some other disposition.

Q. After this occurred, did your class have any meeting in regard to it?—A. No, sir; not for some time; we went up and told the commandant.

Q. When was the committee appointed to make a statement of the affair?—A. It was appointed in this manner: very soon after eight o'clock we went up, and told the commandant that we had sent them off. He, of course, was very much surprised, and asked for an explanation; that is to say, for a statement of what we had done and our reasons for doing it. This statement was drawn up by three members of the class and given to him. They were selected or appointed to draw up this statement.

Q. That was several days afterward?—A. It was a day or two afterward.

Q. Were you present when that report was made to General Upton?—A. I was not.

Q. Who made the report?—A. I think Mr. Wasson made the report. We did not desire to keep him in ignorance of what had transpired.

Q. What action was taken in reference to the first class that day?—A. Nothing was done to us. I suppose it was under consideration. Of course we did not know what the superintendent and the commandant were doing.

Q. Several days elapsed before an order was published about it?—A. Yes, sir; we informed him that we had done it, and that we expected to receive such punishment as he saw fit to impose upon us.

By Mr. ASPER:

Q. How do you regard this conduct on your part; as praiseworthy or otherwise?—A. Of course I can speak for no one but myself. With me it was a question—a very serious question—whether I should be dismissed or stay here; whether I should allow such lying to go on and remain, or to not allow it and go away. I chose the last.

By Mr. SLOCUM:

Q. Something has been said about an order being issued in the mess-hall for the second class to cut the fourth class?—A. No, sir; no such order could have been issued except through me, and none was issued; it would not have been allowed.

Q. To your knowledge no commissioned officer knew of this affair until after it occurred?—A. I know that none did. It was so sudden that no officer could have known it until it was entirely over.

By Mr. ASPER:

Q. What feeling was entertained by yourself and your class toward Cadet Baird?—A. None whatever, so far as I am personally concerned. I had probably more to do with him than any member of the class, as I am captain of his company. I had up to this time been very favorably impressed with him. I had not known of his going to Buttermilk. It was not in my province to disapprove of that. It is considered by us as a piece of recklessness, but not as evincing depravity. It was something I would not do.

Q. When did he enter the academy?—A. He came in September.

Q. The other boys came in June?—A. Yes, sir.

Q. As to Baird's general standing—was it good or otherwise?—A. Do you mean his scholarship?

Q. As to his standing as a cadet?—A. That we know very little of, except in our own class. We have nothing in common with the fourth class, and know nothing of them until they have been here a year.

Q. Was there anything against Flickinger or Barnes?—A. Mr. Barnes was one that would give you a very unfavorable impression. He was very dirty in his personal appearance—not clean or ambitious to be soldierly. That was the only way in which I had any knowledge of him.

Q. How was Mr. Flickinger's standing?—A. Flickinger was one of whom I knew very little. He was never thrown in my way except on duty, and on duty I had never had any fault to find with him, or with Mr. Baird either. They were very neat in their appearance, and that was about all that was required of them.

WEST POINT, N. Y., *January* 28, 1871.

Cadet FREDERICK D. GRANT sworn and examined.

By Mr. ASPER:

Question. State your age, residence, and position at the academy?—Answer. I am 21 years of age; reside in Washington, D. C.; and am a private in the first class.

Q. State as briefly as you can what part you took in the sending off of these boys?—A. On the 2d of January, while we had release from quarters, Mr. Baird, of the fourth

class, went to Buttermilk, where he got drunk. He returned in the afternoon, and in the evening he told one of his classmates, Mr. Dallon, that he was going down again. Mr. Dallon told him not to go, that he would be "hived" if he was caught during the inspection. He replied something to the effect that he was all right; that he had arranged with Flickinger; that he had him under his control, so that he would do what he told him to. At the sentinel's inspection at the first relief, Flickinger answered "all right;" the sentinel, however, suspected that all was not right, and so reported to the corporal.

Q. You need not go through with the details. Your class were satisfied that these cadets were guilty of falsehood, and held a meeting for the purpose of taking measures to expel them from the Point?—A. Yes, sir. There had been a great many court-martials before that, and out of 29 that had been dismissed within the last ten years, only one has remained away.

Q. You divided your class into three squads who were to take care of these boys?—A. Yes.

Q. The principal part of the class were engaged in the affair?—A. The whole of it.

Q. Are you a member of that class?—A. Yes, sir.

Q. You took part in the affair the same as the rest?—A. Yes, sir.

By Mr. SLOCUM:

Q. Speaking about the number of cases in which sentences have been remitted, in how many of these cases have you applied for a remission of the sentences?—A. Only three, sir.

Q. What were they?—A. One was the case of Mr. Clark, class of 1868. He was dismissed for going down to Buttermilk. I wrote a letter to father, but he took no action upon it; Mr. Johnson remitted it; and the other two were the cases of Mr. Groom and Mr. Davenport. I wrote to have their sentences remitted, as they were not guilty of any offense. Their sentence was remitted to suspension for one year.

Q. What were they charged with?—A. Conduct unbecoming an officer and a gentleman; the specification was for erasing a report. They did not erase it—at least I understood they did not; and out of the five men who were court-martialed at that time, three of them for lying, the two who were not guilty were sentenced to be dismissed, and only one that was dismissed finally was afterward proven to be innocent, and that was Barnes.

Q. Do you recollect the case of Shortelle?—A. That was another case about which I wrote. I forgot that.

Q. You wrote on about that?—A. Yes, sir.

Q. He was reinstated?—A. Yes, sir.

Q. These four cases are the only ones you can call to mind?—A. Yes, sir.

By Mr. ASPER:

Q. Were you present in the room calling up these boys, and what part did you take personally in sending them off?—A. I was merely in the room. I was appointed treasurer of the committee. I think there were six or eight men in the committee to which I belonged.

Q. Did you have a meeting on the day of the 3d, in which you heard testimony in reference to these boys?—A. We had a meeting of the class, I think, on the 3d. We had enough testimony to convince me.

Q. The boys were not present at any of these meetings?—A. No, sir.

Q. They did not know what was going on?—A. No, sir; we didn't intend to do anything until we were satisfied that they were guilty.

Q. Who were the movers?—A. There were no movers.

Q. Who were the leaders?—A. No one; all acted together.

Q. Did you see anything about violence?—A. There was none that I saw. I only remember seeing three men touch them, and that was only to wake them, which was not roughly at all; just enough to wake them up. They were informed that they had been lying, and that they knew it, and that we were going to send them off. We took them up the road toward Fort Putman and sent them off. I didn't see them touched going up.

Q. The talk going up was rather menacing than otherwise toward the boys?—A. I did not pay any attention to it. I believe something was said, if they came back in the morning they would be tarred and feathered.

Q. Was there not considerable talk all the time of that kind?—A. I believe there was.

Q. That they would be tarred and feathered if they came back?—A. Yes, sir.

Q. Were there any other threats?—A. Not that I heard.

Q. Were they not told to run?—A. Perhaps so; they ran about fifty yards.

Q. Were any missiles thrown?—A. None whatever.

Q. Did not some of the boys have rocks in their hands?—A. I did not see any.

By Mr. SLOCUM:

Q. Your class base their action in this matter wholly on the ground that it was found impossible to punish such offenses here?—A. That was one of the reasons; another was, the sentences being remitted as often as they are. We did not consider this the place for liars.

Q. Was there not a difficulty between your class and these boys before?—A. None whatever that I know of. I know that Mr. Baird, particularly, had friends in our class. Mr. Barnes had been arrested two or three times for lying, twice I think altogether, and was known to be a liar.

WEST POINT, N. Y., *January* 28, 1871.

General EMORY UPTON recalled and examined.

By Mr. SLOCUM:

Question. If you desire to make any additional statement to the committee in reference to your testimony yesterday, you can do so.—Answer. In reply to a question which you asked me as to which, in my opinion, would be most detrimental to the discipline of the corps, to receive back a liar who was convicted as such, or a mutiny of the first class, I think I went on to state that this action of the first class was not a mutiny in any sense of the word, and I did not go back and answer the question. I would like to state now that in my judgment no greater blow can be struck to the service or to the moral tone of the corps than to compel the academy to receive back a cadet who has been guilty of falsehood or conduct unbecoming an officer and a gentleman, and as a consequence to graduate him and send him forth to the Army. I think no blow can be struck greater than that; that an isolated act of breach of discipline, like the one committed by the first class, which can be adequately punished by the military authorities, cannot be compared in its pernicious results to those that flow naturally from receiving back a cadet who is known not to possess integrity of character. I wish to be fully understood that I do not justify the action of the first class; that can be punished by the military authorities in such a manner as to prevent its recurrence.

By Mr. ASPER:

Q. What, in your opinion, is the remedy for laxity of discipline at the academy, if any exists?—A. In general terms I would say that I do not think any exists. I think the best interests of the service would be served by having every cadet who is guilty of a dishonorable act dismissed. I think the superintendent should have authority to convene general courts-martial, to review their proceedings and act upon all sentences save those of dismissal, which should be reserved for the action of the Secretary of War, who is the head of the institution. I think it would raise the standard of education if every cadet who is found deficient by the academic board, and recommended by the board for discharge, was discharged upon that recommendation.

Q. Have there been many instances in which the academic board have been overruled?—A. I think there has not been many, but this is a thing which would look to the whole future. It would stop that political pressure which is always brought to bring a man back who has been discharged. If there is any doubt in your minds as to my views as to this action of the first class, I desire to say that I believe it was a gross breach of discipline, and should be punished by the military authorities. I would like also to put my views on record in regard to the resignations of these boys. I consider it better for themselves and for the interests of the service that they should resign (as they admitted all the facts) rather than to be brought to trial. Of course I am willing to stand or fall by all my official acts, and I would further state that it is my belief that where a cadet is guilty of a dishonorable action, and is conscious that he can be proven so before a court-martial, it is better for him to resign rather than to have his conduct made public by an official investigation. I have never advised a cadet to resign unless I was fully satisfied that the charges could be sustained against him. I have in no case urged a man to resign unless he admitted the charges against him, and I have simply given him advice in regard to his leaving the academy.

Q. In these cases there don't seem to be any admission of guilt.—A. Flickinger and Baird both admitted to me their guilt.

Q. But Baird was not under charges that would result in his dismissal.—A. I had charges made up against him. My first charge was only absence without leave.

Q. Is not that all you could have brought up?—A. I could subsequently bring up that he connived with his room-mate to make a false statement. I would also state that it has been customary where cadets have committed an offense which would occasion their expulsion by law for them to resign, and in some cases they have been ordered summarily to their homes to wait the action of the Secretary of War without trial.

Q. That would be what you would call a summary dismissal?—A. Yes, sir. It shows that it has not been the invariable rule to try cadets, and that if they want to resign

they would be permitted to resign. My understanding is that the first class are now very sorry about this thing, and regret it occurred.

Q. Do you know of any other cadets being at Buttermilk at the time Baird was there?—A. No, sir; I don't think there were any others there.

Q. If they were there must not their absence been covered up in the same way that Baird's was?—A. I suppose so.

General Upton subsequently appeared before the committee and desired to have the following statement incorporated as part of his testimony in explanation and correction of it:

HEADQUARTERS U. S. CORPS OF CADETS,
West Point, N. Y., January 29, 1871.

GENTLEMEN: Mr. Baird having testified before your honorable committee that cadets of other classes were with him at Highland Falls at the time his room-mate, Cadet Flickinger, falsely reported "all right" to the sentinel, and your having asked me if their absence could have been concealed in any other manner than that adopted by Cadets Baird and Flickinger, to which I replied "that it could not," or words to that effect, I now desire to state that on the evening of January 2, 1871, the evening Cadet Baird absented himself from the post, the superintendent gave permission to the first and second classes to attend a hop, and that a permit was presented to me by Cadet Birney, W. G., for the third class to visit in barracks from call to quarters till tattoo or taps; which permit was signed by the superintendent. The fourth class was the only one in the academy the members of which were required, as on other evenings, to remain in their quarters. When before your honorable committee, I did not recall the fact that the 2d of January was kept as a holiday, and that the superintendent had given privileges to the first, second, and third classes, authorizing their absence from their quarters. I now, therefore, request to amend my testimony, so that it may read: "At the time Cadet Baird was absent from his quarters, between 7.35 and 8.40 p. m. on the 2d of January, 1871, it was possible for any member of the first, second, and third classes to have been at Highland Falls without necessitating, requiring, or permitting their unauthorized absence to be concealed by the false report, 'all right,' to the sentinel, the absence of the members of these classes from their rooms being accounted for by the privileges granted by the superintendent."

As in the absence of this testimony your honorable committee may be able to report that the offense of Cadet Baird was committed by members of the higher classes on the same evening, and that their absence was covered similarly, by false reports to the sentinels, thereby leading the public to believe that falsehood is a vice common in the corps of cadets, I ask you to accept my testimony as amended; if not, I ask that, in justice to the academy, General Pitcher, myself, and a member or members of the first, second, and third classes may be summoned to testify before you in proof that the offense of Cadet Baird had no parallel in either of the classes above named.

I have the honor to be your obedient servant,

E. UPTON,
Brevet Major General U. S. Army, Commandant of Cadets.

Hon. JOEL F. ASPER,
Hon. H. W. SLOCUM,
Hon. JASPER PACKARD,
Members of the Sub-Military Committee, House of Representatives.

I would also add that before Cadets Baird and Flickinger returned from Poughkeepsie, I notified a member or members of the first class that they would return and go to their rooms, where they could remain undisturbed; that I should not place any sentinel over them, as I feared no molestation. I sent Captain Clarke, assistant instructor of tactics, to the room of Cadets Baird and Flickinger to notify them that they might rest in peace and quietnesss. The officer in charge, Captain Clarke, retired to his quarters as usual that night. There was no disturbance of any kind, and the corps of cadets was in as perfect a state of subordination as was ever known.

E. UPTON,
Commandant of Cadets.

WEST POINT, N. Y., *January* 28, 1871.

Captain ALEXANDER PIPER sworn and examined.

By Mr. ASPER:

Question. State your rank and position here.—Answer. I am captain Third United States Artillery, and assistant instructor of artillery cadets here.

Q. State your opinion as to the discipline here now as compared with former times.—A. I think it runs about the same. There are at times some things done that do not agree with my judgment; but I do not mean to say that these things are wrong. For instance, when I am acting as commandant I try, of course, to conform in my action

to my knowledge of what the commandant does when he is in his office. He has got his regular routine. I do not now think of anything, but occasionally there may be something which, if I were permanently commandant, I might act differently in, don't you know.

By Mr. SLOCUM:

Q. You mean that for the last five years you don't think the discipline has materially lowered?—A. I would not like to say one word or the other about that.

Q. How is the discipline of the corps now compared with what it was when you were a cadet?—A. All graduates say—you have heard that time and again—"things are not like when I was a cadet." I know that the authorities are much more liberal now than they were in our time. They grant more indulgence to cadets now than they did to us. Now, some of these things may not, in my opinion, be as conducive to strict discipline as others, but I would not like to set up my judgment against others.

Q. How is it as to the general character of the discipline?—A. I think it is about the same. Now, this occurrence which you are investigating; I ought to tell you that I know nothing of it except from hearsay, for this reason: At that time a general court-martial was in session at this post, and of which I was a member. I supposed that the affair would result in the trial of some persons—possibly these cadets—and thus bring the matter before me officially; and for that reason I wanted to know as little about it as possible until it came up before us. I don't think myself that this affair grew out of any relaxation of discipline. This is the second occurrence of the kind since I have been here, and I think if the first occurrence had been punished as the court-martial decided it would have had a good effect. Some four years ago there was some stealing going on in the corps, and they thought they had positive proof that they had the offender, and they drove him out of the corps by violence. Some three or four of the ringleaders were arrested, tried by court-martial, and I think the sentence was dismissal in all their cases. The sentences, I believe, were remitted; and it is my opinion that if it had been carried out strictly it would have had an excellent effect on the corps.

Q. Did not that young man prove innocent?—A. I was on the court of inquiry.

Q. What was the verdict of the court?—A. I could not say; it has never been published.

Q. In this party there seems to have been no ring-leaders?—A. I don't really know much about it; I was very careful not to know anything about it; I don't think this particular act indicates any falling off in discipline; I think that it is one of those things that are always liable to happen, and I believe it results from prior cases not having been punished as they should have been.

Q. What class was it that sent that boy off four years ago?—A. I think it was the first class. There had been a good deal of stealing, and the cadets had reported it to the commandant and were very much worried, because they thought the honor of the corps was being prejudiced; they did all they could to detect it, and when they thought they found the guilty person they acted as they did, and as in this case they acted impulsively; of course there was no justification in it; I go so far as to say that if the authorities choose to keep a thief in the corps or to keep a liar, it is not my business at all; if I don't like it I can apply for another station; it is not for me to say who shall or who shall not stay here.

WEST POINT, N. Y., *January* 28, 1871.

Lieutenant JAMES M. MARSHALL sworn and examined.

By Mr. ASPER:

Question. State your rank in the Army and position in the academy?—Answer. I am first lieutenant Fourth United States Artillery, and assistant instructor of infantry tactics at the United States Military Academy, West Point.

Q. Were you the officer in charge on the night of the 3d?—A. I was officer of the day on the night of the 3d, and was not relieved until the morning of the 4th.

Q. How many days do you run as officer in charge?—A. Just one day; from guard mount on one day to guard mount the next.

Q. It is part of your duty to go around and see whether everything is all right at quarters after the guards have been dismissed?—A. No, sir; as commandant of the cadet companies we inspect quarters after taps, and as officer in charge to make inspection once or twice a week at no regular or fixed time; as officer of the day my duty ceases at 10 o'clock, unless there should be something unusual to call me back.

Q. You made no inspection on the night of the 3d or the 4th?—A. No, sir.

Q. It was not the usual night of the week to do so?—A. It is more usual to inspect on Saturday night than any other, but there is no rule in regard to that. The commandant has expressly desired that we should inspect after taps, once a week, without

regard to the day of the week. Of course if they knew when we were coming there would be no use in the inspection.

Q. You made no inspection that night?—A. No, sir; I had not the slightest suspicion that anything of the kind was going to be done until the next morning when I went to the office.

Q. About what time was that?—A. That was about 8 o'clock.

Q. How did you learn it?—A. From the commandant, or one of the tactical officers. I first heard that they had deserted, and after I returned from my breakfast, which I usually do about 9 o'clock, I heard they had been sent away. I met General Upton, and he told me what had taken place.

Q. There was no consultation among the tactical officers as to what was to be done?—A. We talked the matter over. General Upton had gone over to the superintendent's office, as we supposed, to report the matter to him, and we of course had to act under his orders. It was a matter which excited a great deal of interest, and a great deal was said about it.

Q. What is the condition of discipline here, and how does it compare with former years?—A. I have been on duty here as tactical officer since October 1, 1869, and I think the discipline is better now than it was at that time. It has been improving the last six or eight months considerably, and it is as good as I ever knew it since I have been an officer. Of course when I was a cadet I looked at things with a different eye.

By Mr. SLOCUM:

Q. If there is any cause which you believe operates injuriously please state it?—A. My opinion is that so far as the officers here are concerned they do everything they can to keep up proper discipline; but the remission of sentences and the fact that the officers are not sustained has a bad effect.

Q. Do you know the names of the cadets who have been excepted from the order punishing the first class?—A. Wheeler, (W. B.,) Pardee, Mansfield, and Mott.

WEST POINT, N. Y., *January* 28, 1871.

Cadet JAMES R. WASSON sworn and examined.

By Mr. SLOCUM:

Question. State your age and position here.—Answer. I am twenty-four years old, and am cadet captain D Company corps of cadets.

Q. State briefly what occurred here on the night of the 3d and 4th.—A. The occurrence to which you refer is the forcible ejection of three cadets—Baird, Flickinger, and Barnes. They were taken out of their quarters and conducted to a point near Fort Putnam by the members of the first class, with the exception of five members who were absent—one as officer of the day, one sick in hospital, and three others who did not take any part.

By Mr. ASPER:

Q. Give their names.—A. Mott was officer of the day, Pardee was in the hospital, Bacon had just left the hospital, and Mansfield and Wheeler took no part.

Q. They declined to take any part?—A. I don't think Wheeler declined in the first place, but he did not turn out at night with the class.

Q. How many were there in the class besides those you name?—A. There are forty-two altogether; deduct five, leaves thirty-seven.

Q. Did all these men appear and take part in the transaction?—A. Yes, sir.

Q. What did you do, and how did you do it?—A. Two of the cadets lived together, and one roomed alone. A committee was sent to each room to prepare the men to leave—that is, to wake them up and dress them in citizen's clothing—and another committee waited down in the area to see if all was right. The men were then marched to a point near Fort Putnam, where we supposed cadet limits terminated, given some money, and told to leave the Point and never to return. I do not remember the language used. I did not speak to any of the men myself. There were a number of men talking at once, as would be expected under such circumstances. The class then returned to barracks—the whole proceedings occupying about twenty-five minutes.

Q. What part did you perform?—A. I only accompanied the class.

Q. Was any violence used?—A. I saw no violence used.

Q. Any violence in language?—A. At the time they were sent away I heard remarks, I could not state by whom, as many were speaking at the same time, that they had better not return as cadets, and threatening them with severe treatment in case they did. I heard the expression used, "you will be tarred and feathered," and that they should remember it was the first class that send you away, and that is the way they treat liars. There was no personal violence.

Q. Did you have one or two meetings of your class on the day of the 3d?—A. There were two meetings, I believe. We met first in a gentleman's room, and when we assembled it was not a full meeting of the class; it was an informal meeting altogether, and

men were called upon to express their views in regard to what had been done. It had attracted a great deal of attention and comment in the class. The meeting was adjourned to meet again at 4 o'clock, because at 2 we had to attend recitation. I did not attend the second meeting.

Q. But you assume all they did?—A. Yes, sir; it was generally understood that what they did would be sustained by the whole class.

Q. Was that meeting held before or after parade?—A. I think it was before parade.

Q. Before they knew what action was to be taken by the authorities?—A. We knew that the men were placed in arrest.

Q. What meeting, if any, did the class have after the sending away of these boys?—A. The first meeting we had after they were sent away was called by myself. The commandant, after the matter came to his knowledge, directed us in some way to communicate with these men, that they would not be molested. I do not know whether this was an order to us or not. I inferred not at the time, but as a letter by myself, on my own responsibility, could not pledge that the class would not interfere with them, I called a meeting and submitted that to them, and endeavored to obtain an expression of feeling by the class They, however, declined to do anything of the kind.

Q. That is, to permit them to come back?—A. No, sir, to communicate with them or send them any help. A good many reasons were urged, among which was that we could not properly bring them back after having sent them away and telling them they would be tarred and feathered if they returned; that the commandant would undoubtedly bring them back himself and protect them while here, so that there was no necessity for us to do anything.

Q. Who reported the transaction to the commandant?—A. Mr. Russell and myself.

Q. What time in the day did you report it?—A. Between 8 and 9 o'clock in the morning.

Q. You went to the commandant voluntariiy and reported to him?—A. Yes, sir.

Q. Was this the first intimation he had of what had been done to the boys?—A. I think it was.

Q. After that you had another meeting and appointed a committee?—A. That was appointed in this way: After the matter was reported to the commandant and we had told him all that occurred and our reasons for doing it, we added that any further information he desired would be furnished by us or any member of the class. Afterward Russell and myself were sent for by Captain Clark, who was acting commandant that day, and told to present a written statement of the transaction, and anything we wished to state in regard to it. At our request Mr. Davis was also included in the committee, and we were furnished with all the necessary facilities for drawing up this report; that is, we had permission to visit each other's rooms, &c.; after we had been working on it during the day some of the class were dissatisfied with what we were doing, and thought we were pursuing a course which would not be approved by the class. A meeting of the class was then called, and the matter was taken entirely out of our hands and given to another committee, who made a report to the commandant.

Q. Is this the report? (A paper shown to witness.)—A. I do not know whether it is the original or a copy.

Q. That report was made out by a committee appointed by the class?—A. Yes, sir.

Q. Was it read to the class before being sent?—A. If it was I did not hear it.

Q. Was it assumed by the class?—A. Yes, sir.

Q. They approved of the statement of facts and assumed its responsibility?—A. Yes, sir.

WEST POINT, N. Y., *January* 28, 1871.

Cadet WALLACE MOTT affirmed and examined.

By Mr. ASPER:

Question. State your age and position.—Answer. I am twenty-three years of age, and cadet lieutenant in corps of cadets.

Q. You were officer of the day about the 3d of January?—A. I think it was on the 3d of January, ending on the morning of the 4th.

Q. What, if anything, did you know of the transaction committed by the first class on the night of the 3d of January?—A. I knew nothing about it. I heard nothing that night which led me to believe that anything unusual was going on. I heard some one in my room to wake up my room-mate, Schwatka.

Q. He was waked up and went out?—A. I cannot tell whether he waked up. I heard some one in the room. In the morning at the first roll-call I found that Cadets Baird and Flickinger were absent, and it was my duty to look them up. I went to their rooms and found they were gone. Their beds were somewhat in disorder, but everything that a cadet usually has in his room was there; a watch was hanging up in Mr. Baird's alcove, clothes were in the press, &c. At surgeon's call, a half an hour afterward, it is my duty to be down there again to assist in forming the squads of the sick to march to the hospital. I visited their rooms again, and also Mr. Barnes's room, and found him

gone also. When the new officer went on we both went to the commandant's office and reported the fact that these cadets were missing, and had been gone since reveille. That was shortly after 8 when we reported this at the commandant's office.

Q. What report, if any, did you make about the disturbance in your own room?—A. I made no mention of it; it could hardly be called a disturbance.

Q. Is it a usual or unusual thing to wake up boys?—A. It sometimes happens that one cadet will visit another in his room.

Q. Do you pay your visits after taps?—A. Quite frequently.

Q. You made no mention of that fact?—A. No, sir.

Q. At the time you made your report what knowledge had you of the transaction that occurred the previous night?—A. None at all.

Q. How soon after did you hear of it?—A. I should think about a half an hour; it was talked of in the class.

Q. What part, if any, had you in assuming responsibility in this transaction?—A. I cannot say that I have had any responsibility. After the superintendent issued his order saying that any one who disavowed the act would be released from the effect of that order, I never availed myself of that privilege, but the commandant reported the fact to the superintendent that I had nothing to do with it, and there was a special order issued applying to my case and to one or two others who were in hospital.

Q. Do you know whether any feeling existed between the first class and the fourth class, or against these boys?—A. No sir, not that I know of. I do not think there was any other thing except the affair of the 2d of January.

WEST POINT, N. Y., *January* 28, 1871.

Captain ALEXANDER CLARK sworn and examined.

By Mr. ASPER:

Question. How long have you been stationed at the academy?—Answer. About five years.

Q. How does the state of discipline at the present time compare with any previous time?—A. I think it is as good to-day if not better than it was five years ago.

By Mr. SLOCUM:

Q. How does it compare with the time when you were a cadet?—A. Our opportunities for judging as officers and cadets are not the same. We are apt to think that when we were cadets that was the best time the academy ever saw. I used to think when I was a cadet that the discipline was better than it has been since.

Q. Do you know of any cause that operates to the detriment of the discipline or to the best interests of the academy?—A. I think that the reinstatement of men who have been sentenced to be dismissed by court-martial is one detrimental cause.

WEST POINT, N. Y., *January* 28, 1871.

Lieutenant CHARLES KING sworn and examined.

By Mr. SLOCUM:

Question. Give your rank in the Army and position in the academy?—Answer. I am first lieutenant Fifth Cavalry, and assistant instructor of cavalry, artillery, and infantry tactics.

Q. When did you graduate?—A. June 18, 1866.

Q. How long have you been on duty here?—A. Since August 28, 1869.

Q. We desire to inquire as to the discipline of the corps; is it as good as when you were here as cadet?—A. In some respects not better, and in some respects it has been worse. I regard it as improving.

Q. State, if you can, any cause that is injurious to discipline or to the best interests of the academy?—A. The main cause in my opinion is that the authorities have not been sustained in the punishment awarded cadets for violations of regulations.

WEST POINT, N. Y., *January* 28, 1871.

Captain EDWARD C. BOYNTON sworn and examined.

By Mr. SLOCUM:

Question. State your rank in the Army, and the nature of your service here.—Answer. I am a captain in the Army, and for nearly ten years I have been at the academy as adjutant.

Q. You are now adjutant of the academy?—A. Yes, sir.

Q. As adjutant what are your duties in the main?—A. I have care of the records of the academy, organize and arrange all the classes, keep the demerit rolls, and have charge of the official correspondence of the academy.

Q. Have you a list of cadets who have been dismissed from the academy and after-

ward reinstated?—A. I have with me a list of cadets who have been dismissed after trial by court-martial, or by the Secretary of War. The remarks opposite their names are taken from the official records of the academy. (The list referred to is attached to the testimony, and marked A.) I have also a list of cadets who have been suspended by the Secretary of War, or by court-martial. These lists cover a period of ten years last past. (The list last referred to is attached herewith, and marked B.)

Q. Do you know anything about the recommendations upon which the sentences were mitigated?—A. I only know what the general orders promulgating the proceedings states. I have here copies of all general orders relative to the proceedings of courts-martial for the trial of cadets, which I will lay before the committee. (Attached, and marked C.)

Q. As adjutant are you a member of the academic board?—A. Only as secretary. I have no voice in its proceedings.

Q. Is it customary for the academic board to find a cadet deficient on the recommendation of his instructor, even though the head of the department does not concur?—A. I think that as a general rule the head of a department and the instructor are found to agree. Where they are found to disagree, and that is a very rare instance, I have never known a cadet to be found deficient on the mere instructor's recommendation.

Q. Have the academic board found men deficient, and they subsequently reinstated by the War Department?—A. Yes, sir; repeatedly.

Q. And put back in the same class?—A. Yes, sir; sometimes in the same class, and sometimes in a succeeding class.

Q. Can you call to mind any of the names of the present first class who have been found deficient and reinstated?—A. I could not say without consulting the records. My impression is there are not any cases of that kind. There are twenty-seven names on the lists that I have presented you of cadets who have been dismissed, and of those, twenty-one have been put back with not so much as a word of explanation. Twenty-one of them have been reinstated, and the impression is that five of the balance are to return. Three of them were in the fourth class. They were pledged on their word of honor not to annoy or harass the fourth class cadets, their own companions; they having been admitted in June, and the latter in September, and for a violation of this pledge they were tried and dismissed.

Q. What is your opinion as to the state of discipline at the academy now?—A. I think it has been better within the last two or three years and within the last twelve months. I think there has been a better feeling among the cadets than I have ever known before; we have had fewer courts-martial, fewer cases of violations of regulations. They very rarely go to Buttermilk. The inducements to go there are removed. They can now go to Cold Spring and Newburg. There is more indulgence granted them, and I think they appreciate it. I think there is a higher state of discipline among them than there has been for many years.

A.

List of cadets who have been dismissed by courts-martial or by the Secretary of War from January 1, 1861, *to January* 1, 1871, *a period of ten years.*

Names.	Date of dismissal.	Offense.	Remarks.
James F. McQuesten.....	April 3, 1861	Absent from the post of West Point without authority.	Restored; remitted by the Secretary of War.
James P. Dronillard.....	April 3, 1861	Absent from the post of West Point without authority.	Restored; remitted by the Secretary of War.
William S. Beebe	April 3, 1861	Going beyond prescribed limits, and absence from duty.	Restored; remitted by the Secretary of War.
Jacob H. Smyser.....	April 3, 1861	Absent from the post of West Point without authority.	Restored; remitted by the Secretary of War.
James Seabrook	Oct. 9, 1861	Absent from quarters and beyond cadet limits between evening call to quarters and 8¼ o'clock p. m., September 26, 1861.	Restored November 1, 1861.
John G. Butler	July 19, 1862	Vulgar and profane inscriptions on check book on May 20, 1862.	Restored; sentence remitted by Secretary of War.
James E. Bachelder.....	Sept. 27, 1865	Intoxication.....	Restored; remitted by the Secretary of War.
Charles King	Feb. 10, 1866	Allowing Cadet O. B. Boyd to be paraded before the battalion of cadets assembled for evening parade as a degraded criminal.	Restored; remitted by the Secretary of War.
Frank Soulé	Feb. 10, 1866	Parading, or assisting to parade, Cadet Boyd as a degraded criminal.	Restored; execution of sentence suspended by Secretary of War.
Edward M. Wright	Feb. 10, 1866	Parading, or assisting to parade, Cadet Boyd as a degraded criminal.	Restored; execution of sentence suspended by Secretary of War.

A.—*List of cadets who have been dismissed by courts-martial, &c.*—Continued.

Names.	Date of dismissal.	Offense.	Remarks.
Arthur Cranston.....	Feb. 10, 1866	Parading, or assisting to parade, Cadet Boydas a degraded criminal.	Restored; execution of sentence suspended by Secretary of War.
Eugene P. Murphy.....	Feb. 10, 1866	Parading, or assisting to parade, Cadet Boyd as a degraded criminal.	Restored; execution of sentence suspended by Secretary of War.
Leonard G. Hun	Jan. 26, 1866	Intoxication and beyond cadet limits.	Restored; remitted by the Secretary of War.
John P. Walker.....	April 20, 1866	Disrespect to his superior officer...	Restored May 2, 1866.
William J. Hamilton.....	May 8, 1867	Intoxication.....	Restored; commuted to confinement to camp.
Hayden De Lany.....	May 8, 1867	Intoxication.....	Restored; remitted by the Secretary of War.
Robert N. Price.....	Aug. 3, 1869	Going beyond cadet limits.....	Restored; commuted to confinement to cadet limits.
Daniel C. Kingman	Dec. 6, 1870	Lying	Restored; mitigated to suspension by the Secretary of War.
Arthur L. Wagner.....	Dec. 6, 1870	Lying	Restored; mitigated to suspension by the Secretary of War.
Thomas C. Davenport....	Dec. 6, 1870	Conduct unbecoming an officer and a gentleman.	Restored; commuted to suspension without pay or emoluments till July 1, 1871.
Millard F. Goodwin.....	Dec. 6, 1870	Conduct unbecoming an officer and a gentleman.	Restored; commuted to suspension without pay or emoluments till July 1, 1871.
William V. R. Howell....	Sept. 27, 1865	Breach of confinement.....	
Edwin P. Andrus	Dec. 10, 1870	Unauthorized and highly improper interference with the cadet sentinels duly posted on the night of November 16, 1870.	
Myron W. Howe.....	Dec. 10, 1870	Unauthorized and highly improper interference with the cadet sentinels duly posted on the night of November 16, 1870.	
George R. Smith.....	Dec. 10, 1870	Unauthorized and highly improper interference with the cadet sentinels duly posted on the night of November 16, 1870.	
Robert P. P. Wainwright.	Dec. 10, 1870	Unauthorized and highly improper interference with the cadet sentinels duly posted on the night of November 16, 1870.	
Alpheus E. Frank	Dec. 10, 1870	Willful violation of his pledge of honor not to interfere with new cadets.	

HEADQUARTERS MILITARY ACADEMY,
West Point, New York, January 28, 1871.

T. G. PITCHER, *Superintendent.*

B.

List of cadets who have been suspended by courts-martial or by the Secretary of War from January 1, 1861, *to January* 1, 1871, *a period of ten years.*

Names.	Date of suspension.	Offense.	Remarks.
George G. Pyle	September 27, 1865.	Absent from quarters during night.	Remitted by Secretary of War September 27, 1865.
John Carline.....	January 26, 1866 ..	.....do	Remitted by Secretary of War January 26, 1866.
Alexander O. Brodie	November 27, 1866.	.....do	Mitigated to reprimand November 27, 1866.
Cyrus S. McMillen.	November 27, 1866.	.....do	Do.
William P. Clark ..	October 31, 1867 ...	Beyond limits, at Cozzens's H.	Revoked December 6, 1867.
J. B. Walker	March 2, 1868	Absent from quarters during night.	Disapproved March 2, 1868.
J. E. Shortelle.....	February 5, 1871 ..	Insubordinate and disrespectful conduct to his superior officer, Captain Clarke.	Commuted by kindness of President to restriction of limits.

T. G. PITCHER,
Brevet Brigadier General, Superintendent Military Academy.

C.

[General Court-martial Orders No. 40.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, February 10, 1866.

I. Before a general court-martial which convened at West Point, New York, January 23, 1866, pursuant to Special Orders No. 657, dated December 27, 1865, and No. 25, dated January 19, 1866, War Department, Adjutant General's Office, Washington, and of which Brevet Lieutenant Colonel J. C. Clark, jr., captain U. S. Army, is president, were arraigned and tried—

1. Cadet Lieutenant and Adjutant Charles King, jr., U. S. Military Academy.

CHARGE.—"Conduct prejudicial to good order and military discipline."

Specification.—"In this: that he, Cadet Lieutenant and Adjutant Charles King, jr., of the U. S. Corps of Cadets, while in charge of the battalion of cadets at evening undress parade, did allow certain cadets to parade Cadet O. B. Boyd, of the U. S. Corps of Cadets, as a degraded criminal, before the batalion assembled for evening parade. All this without the sanction of any authority, and in gross violation of good order and military discipline at West Point, New York, on or about the 18th of December, 1805."

To which charge and specification the accused, Cadet Lieutenant and Adjutant Charles King, jr., U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Lieutenant and Adjutant Charles King, jr., U. S. Military Academy, as follows:

Of the specification, "Guilty." Of the charge, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Lieutenant and Adjutant Charles King, jr., U. S. Military Academy, "*To be dismissed from the military service of the United States.*"

2. Cadet Frank Soulé, jr., U. S. Military Academy.

CHARGE.—"Conduct prejudicial to good order and military discipline."

Specification.—"In this: that he, Cadet Frank Soulé, jr., of the U. S. Corps of Cadets, did force or assist in forcing Cadet O. B. Boyd, of the U. S. Corps of Cadets, to assume a dress other than his uniform, and did parade or assist in parading Cadet Boyd, as a degraded criminal, before the corps of cadets. All this without the sanction of any authority, and in gross violation of good order and military discipline, at West Point, New York, on or about December 18, 1865."

To which charge and specification the accused, Cadet Frank Soulé, jr., U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Frank Soulé, jr., U. S. Military Academy, as follows:

Of the specification, "Guilty." Of the charge, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Frank Soulé, jr., U. S. Military Academy, "*To be dismissed from the military service of the United States.*"

3. Cadet Edward M. Wright, U. S. Military Academy.

CHARGE.—"Conduct prejudicial to good order and military discipline."

Specification.—"In this: that he, Cadet Edward M. Wright, of the U. S. Corps of Cadets, did force or assist in forcing Cadet O. B. Boyd, of the U. S. Corps of Cadets, to assume a dress other than his uniform, and did parade or assist in parading Cadet Boyd, as a degraded criminal, before the corps of cadets. All this without the sanction of any authority, and in gross violation of good order and military discipline, at West Point, New York, on or about December, 18, 1865."

To which charge and specification the accused, Cadet Edward M. Wright, U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Edward M. Wright, U. S. Military Academy, as follows:
Of the specification, "Guilty." Of the charge, "Guilty."

Sentence.

And the court does therefor sentence him, Cadet Edward M. Wright, U. S. Military Academy, "*To be dismissed from the military service of the United States.*"

4. Cadet Arthur Cranston, U. S. Military Academy.

CHARGE.—"Conduct prejudicial to good order and military discipline."

Specification.—"In this: that he, Cadet Arthur Cranston, of the U. S. Corps of Cadets, did force or assist in forcing Cadet O. B. Boyd, of the U. S. Corps of Cadets, to assume a dress other than his uniform, and did parade or assist in parading Cadet Boyd, as a degraded criminal, before the corps of cadets. All this without the sanction of any authority, and in gross violation of good order and military discipline, at West Point, New York, on or about the 18th of December, 1865."
To which charge and specification the accused, Cadet Arthur Cranston, U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Arthur Cranston, U. S. Military Academy, as follows:
Of the specification, "Guilty." Of the charge, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Arthur Cranston, U. S. Military Academy, "*To be dismissed from the military service of the United States.*"

5. Cadet Eugene P. Murphy, U. S. Military Academy.

CHARGE.—"Conduct to the prejudice of good order and military discipline."

Specification.—"In this: that he, Cadet Eugene P. Murphy, of the U. S. Corps of Cadets, did force or assist in forcing Cadet O. B. Boyd, of the U. S. Corps of Cadets, to assume a dress other than his uniform, and did parade or assist in parading Cadet Boyd, as a degraded criminal, before the corps of cadets. All this without the sanction of any authority, and in gross violation of good order and military discipline, at West Point, New York, on or about the 18th day of December, 1865."
To which charge and specification the accused, Cadet Eugene P. Murphy, U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Eugene P. Murphy, U. S. Military Academy, as follows:
Of the specification, "Guilty." Of the charge, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Eugene P. Murphy, U. S. Military Academy, "*To be dismissed from the military service of the United States.*"

6. Cadet Welcome B. Randall, U. S. Military Academy.

CHARGE.—"Violation of the 46th Article of War."

Specification.—"In this: that he, Cadet Welcome B. Randall, of the U. S. Military Academy, having been duly posted as a sentinel in a hall of cadet barracks, did leave his post before being regularly relieved, and enter a room of said barracks under his charge. All this at or near West Point, New York, on or about the 30th day of December, 1865."
To which charge and specification the accused, Cadet Welcome B. Randall, U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Welcome B. Randall, U. S. Military Academy, as follows:
Of the specification, "Guilty." Of the charge, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Welcome B. Randall, U. S. Military Academy, "*To be suspended from the U. S. Military Academy until the 1st day of July*' 1866, *at which time he will join as a member the then fourth class.*"

II. The proceedings, findings, and sentences of the court in the foregoing cases of Cadets Frank Soulé, jr., Edward M. Wright, Arthur Cranston, and Eugene P. Murphy, U. S. Military Academy, are approved. The execution of the sentence in each case is suspended, on the recommendation to clemency by six members of the court, and the previous good character of the accused, until the close of the present academic term, when the good conduct of the cadets in the mean time will be taken into consideration.

The proceedings, findings, and sentence in the foregoing case of Cadet Welcome B. Randall, U. S. Military Academy, are appproved and confirmed.

The proceedings and findings in the foregoing case of Cadet Lieutenant and Adjutant Charles King, jr., U. S. Military Academy, are approved. On the recommendation of six members of the court, based upon his high character and previous good conduct, the sentence of dismissal is remitted. But however honorable may have been his motives, Cadet King was guilty of a grave offense, and it is therefore ordered that he be deprived of his appointment as cadet lieutenant and adjutant.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Court-martial—Orders No. 172.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, July 2, 1866.

In consideration of the good conduct of Cadets Frank Soulé, jr., Edward M. Wright, Arthur Cranston, and Eugene P. Murphy, U. S. Military Academy, as reported by the superintendent of the Military Academy, sentenced each "*to be dismissed from the military service of the United States,*" the execution of which sentence was suspended, (General Court-Martial Orders, No. 40, War Department, Adjutant General's Office, February 10, 1866,) the sentence of court-martial in their respective cases is set aside and vacated.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Court-martial—Orders No. 23.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, January 26, 1866.

I. Before a general court-martial which convened at West Point, New York, January 2, 1866, pursuant to Special Orders No. 657, War Department, Adjutant General's Office, December 27, 1865, and of which Brevet Lieutenant Colonel Alexander Piper, captain Third United States Artillery, is president, were arraigned and tried—

1. Cadet Philip M. Price, jr., U. S. Military Academy.

CHARGE.—"Violation of paragraph one hundred and sixteen (116) United States Military Academy Regulations."

Specification.—"In this: that he, Cadet Philip M. Price, jr., of the U. S. Military Academy, did go beyond cadet's limits without leave from the proper authority, being found to the south of Fort Putnam, near the back road leading from West Point to the village of Buttermilk Falls, New York. All this at or near West Point, New York, on or about the afternoon of the 18th of November, 1865."

To which charge and specification the accused, Cadet Philip M. Price, jr., U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Philip M. Price, jr., U. S. Military Academy, as follows:

Of the specification, "Guilty." Of the charge, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Philip M. Price, jr., U. S. Military Academy, "*To walk for ten* (10) *Saturdays, equipped as a sentinel, from 2 o'clock p. m. until retreat, and to be confined to the limits of camp during the next encampment.*"

2. Cadet John Conline, U. S. Military Academy.

CHARGE.—"Violation of paragraph one hundred and fifteen (115) United States Military Academy Regulations."

Specification.—"In this: that he, Cadet John Conline, of the United States Military Academy, did, without permission from the proper authority, absent himself from his room for a longer period than half an hour, between the hours of tattoo on the night of the 6th and reveille on the morning of the 7th of December, 1865. This at West Point, New York."

To which charge and specification the accused, Cadet John Conline, U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet John Conline, U. S. Military Academy, as follows:

Of the specification, "Guilty." Of the charge, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet John Conline, U. S. Military Academy, "*To be suspended until July* 1, 1866, *at which time he will join as a member the then second class, and to be confined to the limits of camp during the ensuing encampment.*"

3. Cadet Leonard G. Hun, U. S. Military Academy.

CHARGE I.—"Violation of paragraph one hundred and thirteen (113) United States Military Academy Regulations."

Specification.—"In this: that he, Cadet Leonard G. Hun, of the U. S. Military Academy, was found under the influence of intoxicating liquor near the back road leading from West Point to the village of Buttermilk Falls, New York. All this at or near West Point, New York, on or about the afternoon of the 18th of November, 1865."

CHARGE II.—"Violation of paragraph one hundred and sixteen (116) United States Military Academy Regulations."

Specification.—"In this: that he, Cadet Leonard G. Hun, of the U. S. Military Academy, did go beyond cadet's limits without leave from the proper authority, being found to the south of Fort Putnam, near the back road leading from West Point to the village of Buttermilk Falls, New York. All this at or near West Point, New York, on or about the afternoon of the 18th of November, 1865."

To which charges and specifications the accused, Cadet Leonard G. Hun, U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused Cadet Leonard G. Hun, U. S. Military Academy, as follows:

Charge I.—Of the specification, "Guilty." Of the charge, "Guilty."

Charge II.—Of the specification, "Guilty." Of the charge, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Leonard G. Hun, U. S. Military Academy, "*To be dismissed the military service of the United States.*"

II. The proceedings and findings of the court in the above cases of Cadets Philip M. Price, jr., John Conline, and Leonard G. Hun, U. S. Military Academy, are approved.

In the case of Cadet Price, that part of the sentence confining him to the limits of the camp during the next encampment is approved and will be executed. The remainder of the sentence is disapproved and remitted.

In the case of Cadet Conline the sentence is remitted.

In the case of Cadet Hun, on the recommendation of several members of the court to clemency, the sentence is remitted, and he will return to his duties.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Court-martial Orders No. 109.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, April 20, 1866.

I. Before a general court-martial which convened at West Point, New York, March 27, 1866, pursuant to Special Orders No. 130, War Department, Adjutant General's Of-

fice, March 22, 1866, and of which Brevet Lieutenant Colonel Alexander Piper, Third U. S. Artillery, is president, were arraigned and tried—

1. Cadet John P. Walker, U. S. Military Academy.

CHARGE—"Disrespect toward his superior officer."

Specification—"In this, that he, Cadet J. P. Walker, U. S. Military Academy, having remained in the section-room after the dismissal of his section, for the purpose of speaking to his instructor, Brevet Lieutenant Colonel A. Mordecai, captain Ordnance Corps, in regard to certain marks that had been given him by his instructor for recitations, did, after having been directed by Brevet Lieutenant Colonel A. Mordecai to leave the section-room, hesitate to do so, and did say to the said Brevet Lieutenant Colonel A. Mordecai that 'he could say nothing more at present, but that after graduating he would,' or words to that effect, being thereby guilty of disrespect toward the said Brevet Lieutenant Colonel A. Mordecai. This at West Point, New York, on or about the 28th day of February, 1866."

To which charge and specification the accused, Cadet John P. Walker, U. S. Military Academy, pleaded as follows:

To the *Specification*, "Guilty," except the words "did, after having been directed by Brevet Lieutenant Colonel A. Mordecai to leave the section-room, hesitate to do so," "he would," and "being thereby guilty of disrespect toward the said Brevet Lieutenant Colonel A. Mordecai." To the CHARGE, "Not guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet John P. Walker, U. S. Military Academy, as follows:

Of the *Specification*, "Guilty." Of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet John P. Walker, U. S. Military Academy, "*To be dismissed the service of the United States.*"

2. Cadet Austin L. Peirce, U. S. Military Academy.

CHARGE—"Violation of paragraph 116, Regulations for the U. S. Military Academy."

Specification—"In this: that Cadet Austin L. Peirce, of the U. S. Military Academy at West Point, New York, did, without permission from proper authority, visit the village of Cold Spring on the east bank of the Hudson River, the same being 'beyond cadets' limits.' All this on or about the 27th day of January, 1866."

To which charge and specification the accused, Cadet Austin L. Peirce, U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Austin L. Peirce, U. S. Military Academy, as follows:

Of the *Specification*, "Guilty." Of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Austin L. Peirce, U. S. Military Academy, "*To be suspended from the U. S. Military Academy, with loss of pay, until July 1, 1866, and then to join the then fourth class of cadets, U. S. M. A.*"

3. Cadet John B. Walker, U. S. Military Academy.

CHARGE—"Deserting post."

Specification—"In this: that he, Cadet John B. Walker, of the U. S. Military Academy, having been duly posted as a sentinel in a hall of cadet barracks, did leave his post before being regularly relieved, and enter a room of said barracks under his charge. All this at West Point, New York, on or about the 26th day of March, 1866."

To which charge and specification the accused, Cadet John B. Walker, U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet John B. Walker, U. S. Military Academy, as follows:

Of the *Specification*, "Guilty." Of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet John B. Walker, U. S. Military Academy, "*To be suspended, with loss of pay, from the U. S. Military Academy until July* 1, 1866, *and then to join the then fourth class of cadets, U. S. M. A.*"

II. The proceedings, findings, and sentences of the court in the foregoing cases of Cadets John P. Walker, Austin L. Peirce, and John B. Walker, U. S. Military Academy. are approved, and the sentences will be executed.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Court-martial Orders No. 127.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, May 2, 1866.

It is ordered that Cadet John P. Walker, U. S. Military Academy, who was sentenced "*To be dismissed the service of the United States,*" (General Court-martial Orders No. 109, War Department, Adjutant General's Office, April 20, 1866,) be reinstated in his class upon his making a suitable acknowledgment and regret of his offense, and apology to his superior.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Court-martial Orders No. 33.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, May 8, 1867.

I. Before a general court-martial which convened at West Point, New York, January 29, 1867, pursuant to Special Orders No. 33, War Department, Adjutant General's Office, January 21, 1867, and of which Brevet Major General Alexander S. Webb, Lieutenant Colonel 44th U. S. Infantry, is president, were arraigned and tried—

1. Cadet William J. Hamilton, U. S. Military Academy.

CHARGE—"Drunk, or under the influence of intoxicating liquor, in violation of paragraph 114, Regulations of the U. S. Military Academy."

Specification—"In this, that he, Cadet William J. Hamilton, of the U. S. Military Academy, when in the act of proceeding upon a leave of absence granted under the conditional pledge 'that he would refrain from the use of all intoxicating liquors, and every other dissipation or excess, while absent from the post of West Point,' did publicly expose himself in a drunken condition, and was so much under the influence of intoxicating liquor as to require the assistance of his companions to disguise his condition and assist him in walking. This at West Point, New York, between the hours of 12 and 3 p. m. on Saturday, the 22d day of December, 1866."

To which charge and specification the accused, Cadet William J. Hamilton, U. S. Military Academy, pleaded "Not guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet William J. Hamilton, U. S. Military Academy, as follows:

Of the *Specification*, "Guilty, except the words 'and assist him in walking.'" Of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet William J. Hamilton, U. S. Military Academy, "*To be dismissed the service of the United States.*"

2. Cadet Hayden DeLany, U. S. Military Academy.

CHARGE—"Drunk, or under the influence of intoxicating liquor, in violation of paragraph 114, Regulations of the U. S. Military Academy."

Specification—"In this, that he, Cadet Hayden DeLany, of the U. S. Military Academy, was found drunk, or under the influence of intoxicating liquor, at the cadet hospital, on or about Sunday the 11th day of November, 1866, and was, in consequence thereof, unfit for duty. This at West Point, New York."

To which charge and specification the accused, Cadet Hayden DeLany, U. S. Military Academy, pleaded "Not guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Hayden DeLany, U. S. Military Academy, as follows:
Of the *Specification*, "Guilty." Of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Hayden DeLany, U. S. Military Academy, "*To be dismissed the service of the United States.*"

II. The proceedings, findings, and sentence of the court in the foregoing case of Cadet William J. Hamilton, U. S. Military Academy, are approved. The sentence is commuted to confinement for thirty days to the limits of camp during the ensuing encampment.
The proceedings, findings, and sentence in the case of Cadet Hayden DeLany, U. S. Military Academy, are approved, but in consideration of the previous high character given him as a cadet, the sentence is remitted, and he will be restored to duty.
By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Court-martial Orders No. 49.]

HEADQUARTERS OF THE ARMY, ADJUTANT GENERAL'S OFFICE,
Washington, August 3, 1869.

I. Before a general court-martial which convened at West Point, New York, July 13, 1869, pursuant to Special Orders No. 163, Headquarters of the Army, Adjutant General's Office, Washington, July 8, 1869, and of which Brevet Lieutenant Colonel A. Piper, captain Third U. S. Artillery, is president, was arraigned and tried—
1. Cadet Robert N. Price, U. S. Military Academy.
CHARGE—"Conduct to the prejudice of good order and military discipline."
Specification—"In this: that he, Cadet Robert N. Price, of the U. S. Military Academy, did go beyond cadet limits, in violation of parapraph one hundred and seventeen, (117,) Regulations U. S. Military Academy, and visit Cozzens's hotel, near the village of Highland Falls, New York, between tattoo on the 15th and reveille on the 16th of June, 1869."
To which charge and specification the accused, Cadet Robert N. Price, U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Robert N. Price, U. S. Military Academy, as follows:
Of the *Specification*, "Guilty." Of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Robert N. Price, U. S. Military Academy, "*To be dismissed the service of the United States.*"

2. Cadet Corporal Charles D. Parkhurst, U. S. Military Academy.
CHARGE—"Conduct to the prejudice of good order and military discipline."
Specification—"In this: that he, Cadet Corporal Charles D. Parkhurst, U. S. Military Academy, being a corporal of the cadet guard, posted at Camp McPherson, New York, did improperly interfere with and injure Cadet Dillard H. Clark, of the fourth class of the U. S. Military Academy, a sentinel on post, by assaulting him with a bayonet while the said Cadet Clark was in the performance of his duty as a sentinel. All this at or near Camp McPherson, West Point, New York, on or about the 12th day of July, 1869."
To which charge and specification the accused, Cadet Corporal Charles D. Parkhurst, U. S. Military Academy, pleaded "Not guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Corporal Charles D. Parkhurst, U. S. Military Academy, as follows:
Of the *Specification*, "Guilty." Of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Corporal Charles D. Parkhurst, U. S. Military Academy, "*To be suspended from the United States Military Academy until the first day of July*, 1870, *and at that time to join the then third class of cadets, forfeiting all pay and allowances during the period of suspension.*"

II. The proceedings in the case of Cadet Price having been laid before the President, he has ordered that the findings and sentence be approved, but influenced by the promises of Cadet Price, he remits the severe penalty of dismissal to "Confinement to the limits of the Plain while he, Cadet Price, *is* a member of the Military Academy."

The proceedings, findings, and sentence in the case of Cadet Corporal Parkhurst are also approved, but by reason of the leniency shown in the former case, his sentence is also commuted to "Confinement to the limits of the Plain for one year from the promulgation of this sentence."

By command of General Sherman:

E. D. TOWNSEND,
Adjutant General.

[General Court-martial Orders No. 31.]

HEADQUARTERS OF THE ARMY, ADJUTANT GENERAL'S OFFICE,
Washington, May 6, 1870.

In the case of Cadet Robert N. Price, U. S. Military Academy, sentenced by a general court-martial "*To be dismissed the service of the United States,*" which sentence was mitigated to "*Confinement to the limits of the Plain while he, Cadet Price, is a member of the Military Academy,*" (General Court-martial Orders No. 49, Headquarters of the Army, Adjutant General's Office, August 3, 1869,) the unexpired portion of the sentence as mitigated is, by direction of the President of the United States, hereby remitted.

By command of General Sherman:

E. D. TOWNSEND,
Adjutant General.

[General Court-martial Orders No. 56.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, December 6, 1870.

I. Before a general court-martial which convened at West Point, New York, October 31, 1870, pursuant to Special Orders No. 287, War Department, Adjutant General's Office, October 26, 1870, and of which Captain Alexander Piper, Third U. S. Artillery, is president, were arraigned and tried—

I. Cadet Daniel C. Kingman, U. S. Military Academy.

CHARGE—"Conduct unbecoming an officer and a gentleman."

Specification 1st—"In this: that he, Daniel C. Kingman, cadet U. S. Military Academy, having been reported on September 16, 1870, for 'slow taking place in the ranks at formation of company after dinner, did submit to the commandant of cadets a written explanation in the following words, to wit: 'I would respectfully state that I took my place in ranks as soon as I could. I am sure it was before the company was formed;' said statement being false. All this at West Point, N. Y., on or about the 18th or 19th of September, 1870."

Specification 2d—"In this: that he, Daniel C. Kingman, cadet U. S. Military Academy, having been reported on September 16, 1870, for 'tobacco smoke in quarters at inspection, 8 and 9 p. m.,' did submit to the commandant of cadets a written explanation in the following words, to wit: 'I would respectfully state that there were several men smoking in my room just before call to quarters, and as the door was closed, and the window nearly closed, I suppose the odor of the tobacco smoke had not all escaped;' said statement being calculated and intended to lead the commandant of cadets to believe that there had been no smoking in his (Cadet Kingman's) room after call to quarters, when in fact there was at that time, and to his (Cadet Kingman's) certain knowledge, a lighted cigar in his room; and furthermore, the door was open, and not closed as stated. All this at West Point, New York, on or about the 18th or 19th of September, 1870."

To which charge and specifications the accused, Cadet Daniel C. Kingman, U. S. Military Academy, pleaded "Not guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Daniel C. Kingman, U. S. Military Academy, as follows:

Of the 1st *Specification*, "Guilty." Of the 2d *Specification*, "Guilty, except the words 'and furthermore the door was open, and not closed as stated,' and of these words not guilty." Of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Daniel C. Kingman, U. S. Military Academy, "*To be dismissed the service of the United States.*"

2. Cadet Arthur L. Wagner, U. S. Military Academy.

CHARGE—"Conduct unbecoming an officer and a gentleman."

Specification—"In this: that he, Cadet Arthur L. Wagner, of the U. S. Military Academy, having been reported 'absent from quarters at inspection by officer of the day, 11 and 11.30 a. m., October 10, 1870,' did submit a written explanation to the commandant of cadets in the following words, to wit: 'I was at the sink some time between 11 and 11.30 a. m.;' said statement being calculated and intended to lead the commandant of cadets to believe that he (Cadet Wagner) was necessarily absent from his quarters at the time of inspection, whereas he (Cadet Wagner) was visiting in an adjoining room at the time referred to in the report, having concealed himself in the alcove of a classmate, Cadet Norton, when said room was inspected by the officer of the day. All this at West Point, New York, on or about the 10th and 12th days of October, 1870."

To which charge and specification the accused, Cadet Arthur L. Wagner, U. S. Military Academy, pleaded "Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Arthur L. Wagner, U. S. Military Academy, as follows:

Of the *Specification*, "Guilty." Of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Arthur L. Wagner, U. S. Military Academy, "*To be dismissed the service of the United States.*"

3. Cadet Thomas C. Davenport, U. S. Military Academy.

CHARGE—"Conduct unbecoming an officer and a gentleman."

Specification—"In this, that he, Thomas C. Davenport, Cadet U. S. Military Academy, being aware that he was about to be reported for the offense, 'attending riding with platoon not his own,' on October 19, 1870, did take the delinquency book of A Company, U. S. Corps of Cadets, to the cadet officer whose duty it was to report him for such offense in compliance with instructions of Captain A. E. Bates, instructor of cavalry, and when such offense had been entered in said book by said cadet officer, did, for the purpose of escaping punishment for said offense, willfully and secretly erase or cause to be erased, or connive at the erasing of, the said report from the said book, thus obliterating the record of his said offense. All this at West Point, New York, on or about the 19th day of October, 1870."

To which charge and specification the accused, Cadet Thomas C. Davenport, U. S. Military Academy, pleaded "Not guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Thomas C. Davenport, U. S. Military Academy, as follows.

Of the *Specification*, "Guilty." Of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Thomas C. Davenport, U. S. Military Academy, "*To be dismissed the service of the United States.*"

4. Cadet Millard F. Goodwin, U. S. Military Academy.

CHARGE—"Conduct unbecoming an officer and a gentleman."

Specification 1st—"In this, that he, Cadet M. F. Goodwin, private, 1st class, U. S. Military Academy, did erase or connive at the erasure of the following report, or a report to the following effect, viz: 'Davenport. Attending riding with platoon not his own,' from the book known as the A Company delinquency book. All this at West Point, New York, on or about the 19th day of October, 1870."

Specification 2d—"In this, that he, Cadet M. F. Goodwin, private, 1st class, U. S. Military Academy, did, without authority, enter in the book known as the A Company delinquency book, two reports for the purpose of concealing the unauthorized erasure of a previous report in said book, in regard to an offense reported as committed by Cadet Davenport, of said Academy. All this at West Point, New York, on or about the 19th day of October, 1870."

To which charge and specifications the accused, Cadet Millard F. Goodwin, U. S. Military Academy, pleaded "Not guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Millard F. Goodwin, U. S. Military Academy, as follows:

Of the 1st *Specification*, "Not guilty." Of the 2d *Specification*, "Guilty." Of the CHARGE, "Guilty."

And the court does therefore sentence him, Cadet Millard F. Goodwin, U. S. Military Academy, "*To be dismissed the service of the United States.*"

5. Cadet McDowell E. Barnes, U. S. Military Academy.

CHARGE—"Conduct unbecoming an officer and a gentleman."

Specification 1st—"In this, that he, Cadet McDowell E. Barnes, U. S. Military Academy, on leaving his room between 2.25 and 3.40 p. m., on October 30, 1870, did report to his room-mate (Cadet H. L. Buckley) that, should the sentinel inspect before he returned, it would be 'all right' for him; that he would be at the sink, or words to that effect; said statement being made thirty minutes or more before said inspection was to take place; and then, under protection of said report, did go on the walk known as 'flirtation walk,' and did not return, but remained absent until between 4.15 and 4.25 p. m., there being no inspection during the time herein specified other than that of the sentinel heretofore mentioned, and for which he had made a report falsely accounting for himself. All this at West Point, New York, on or about the 30th day of October, 1870."

Specification 2d—"In this, that he, Cadet McDowell E. Barnes, U. S. Military Academy, when questioned by the officer of the day, Cadet Lieutenant Knox, in reference to his absence from his quarters at the inspection by the sentinel, 3.10 p. m., October 30, did state that he left his room between five and ten minutes before 3 o'clock p. m., which report was false, Cadet Barnes having left his room about 2.30 p. m., and being, at the time stated in such report, on or near the 'flirtation walk.' All this at West Point, New York, on or about the 30th day of October, 1870."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet McDowell E. Barnes, U. S.Military Academy, as follows:

Of the 1st *Specification*, "Not guilty." Of the 2d *Specification*, "Not guilty." Of the CHARGE, "Not guilty."

And the court does therefore acquit him, Cadet McDowell E. Barnes, U. S. Military Academy.

II. The proceedings and findings of the court in the foregoing cases of Cadets Daniel C. Kingman, Arthur L. Wagner, Thomas C. Davenport, and Millard F. Goodwin, U. S. Military Academy, are approved.

The sentences are mitigated as follows:

In the cases of Cadets Kingman and Wagner, "*To be suspended without pay till July* 1, 1871, *then to join the fourth class.*"

In the cases of Cadets Davenport and Goodwin, "*To be suspended without pay till July* 1, 1871, *then to join the first class.*"

The sentences as mitigated will be duly executed.

The proceedings in the case of Cadet Barnes are fatally irregular, for the reason that no plea on the part of the accused appears upon the record.

The findings and acquittal are approved, and Cadet Barnes will be released from arrest.

III. The general court-martial, of which Captain Alexander Piper, Third U. S. Artillery, is president, is hereby dissolved.

By order of the Secretary of War:

E. D. TOWNSEND,
Adjutant General.

[General Court-martial Orders No. 8.]

HEADQUARTERS OF THE ARMY, ADJUTANT GENERAL'S OFFICE,
Washington, February 5, 1870.

I. Before a general court-martial which convened at West Point, New York, January

20, 1870, pursuant to Special Orders No. 14, Headquarters of the Army, Adjutant General's Office, Washington, January 18, 1870, and of which Major Theodore Edson, Ordnance Department, is president, was arraigned and tried—

Cadet James E. Shortelle, U. S. Military Academy.

CHARGE—"Insubordinate and disrespectful conduct, to the prejudice of good order and military discipline."

Specification—"In this, that he, Cadet James E. Shortelle, of the U. S. Military Academy, did, in an official interview with his superior officer, Captain A. S. Clark, of the U. S. Infantry, assistant instructor of tactics at the said Academy, make use of disrespectful and threatening language, and did say to him, the said Captain A. S. Clarke: 'If you were not my superior officer I would knock you down,' or words to that effect. All this at or near West Point, New York, on or about the 11th day of January, 1870.

To which charge and specification the accused, Cadet James E. Shortelle, U. S. Military Academy, pleaded as follows:

To the *Specification*, "Guilty," except the words, 'and threatening;'" to the CHARGE, "guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet James E. Shortelle, U. S. Military Academy, as follows:

Of the *specification*, "guilty," except the words, 'and threatening;'" of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet James E. Shortelle, U. S. Military Academy, "*To be suspended without rank, pay, or allowances until the 1st of July, 1870, and to join the then second class.*"

II. The proceedings, findings, and sentence of the court in the foregoing case of Cadet James E. Shortelle, U. S. Military Academy, are approved, and the sentence will be duly executed.

III. The general court-martial, of which Major Theodore Edson, Ordnance Department, is president, is hereby dissolved.

By command of General Sherman:

E. D. TOWNSEND,
Adjutant General.

[General Court-martial Orders No. 12.]

HEADQUARTERS OF THE ARMY, ADJUTANT GENERAL'S OFFICE,
Washington, February 15, 1870.

I. By direction of the President of the United States, the unexpired portion of the sentence in the case of Cadet James E. Shortelle, U. S. Military Academy, published in General Court-martial Orders No. 8, Headquarters of the Army, Adjutant General's Office, February 5, 1870, is hereby "commuted to 'restriction of limits' for the balance of the academic year, and loss of rank as a cadet non-commissioned officer for the same period, with the addition of a reprimand for his insubordination. This leniency is shown, not because the course of Cadet Shortelle is approved, but upon the ground of previous good conduct, the belief that his objectionable conduct will not be repeated, and also the provocation which he seemed to have in the excitable manner of his superior officer."

II. The sentence, as commuted, will be duly executed.

By command of General Sherman:

E. D. TOWNSEND,
Adjutant General

[General Court-martial Orders No. 85.]

HEADQUARTERS OF THE ARMY, ADJUTANT GENERAL'S OFFICE,
Washington, October 31, 1867.

I. Before a general court-martial which convened at West Point, New York, October 4, 1867, pursuant to Special Orders No. 456, Headquarters of the Army, Adjutant General's Office, Washington, September 30, 1867, and of which Brevet Lieutenant Colonel J. C. Clark, U. S. Army, is president, was arraigned and tried—

Cadet Captain William P. Clark U. S. Military Academy.

CHARGE—"Conduct to the prejudice of good order and military discipline."

Specification 1st—"In this, that he, Cadet Captain William P. Clark, of the U. S.

Military Academy, did go beyond cadet limits, in violation of paragraph 117, Regulations U. S. Military Academy, and visit Cozzens's Hotel, near the village of Highland Falls, N. Y. This at or near West Point, N. Y., between tattoo on the 16th and reveille on the 17th of September, 1867."

Specification 2d—"In this, that he, Cadet Captain William P. Clark, of the U. S. Military Academy, was at Cozzens's Hotel, near the village of Highland Falls, N. Y., in citizens' clothing, a dress not prescribed for cadets, and in violation of paragraph 97, Regulations U. S. Military Academy. This between tattoo on the 16th and reveille on the 17th of September, 1867."

To which charge and specifications the accused, Cadet Captain William P. Clark, U. S. Military Academy, pleaded "Not Guilty."

Finding.

The court, having maturely considered the evidence adduced, finds the accused, Cadet Captain William P. Clark, U. S. Military Academy, as follows:

Of the 1st *Specification*, "Guilty." Of the 2d *Specification*, "Guilty." Of the CHARGE, "Guilty."

Sentence.

And the court does therefore sentence him, Cadet Captain William P. Clark, U. S. Military Academy, "*To be suspended from the U. S. Military Academy till July* 1*st*, 1868, *and then to join the then first class of cadets, and to forfeit to the United States all his pay and allowances until that date.*"

II. The proceedings, findings, and sentence of the court in the foregoing case of Cadet Captain William P. Clark, U. S. Military Academy, are approved, and the sentence will be carried into execution.

By command of General Grant:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Court-martial Orders No. 94.]

HEADQUARTERS OF THE ARMY, ADJUTANT GENERAL'S OFFICE,
Washington, December 6, 1867.

I. In the case of Cadet William P. Clark, U. S. Military Academy, sentenced by a general court-martial "to be suspended from the U. S. Military Academy till July 1, 1868, and then to join the then first class of cadets, and to forfeit to the United States all his pay and allowances until that date," as promulgated in General Court-martial Orders No. 85, Headquarters of the Army, Adjutant General's Office, Washington, October 31, 1867, the following orders have been received from the President:

EXECUTIVE MANSION, *December* 4, 1867.

So much of the sentence of the general court-martial in the case of Cadet William P. Clark as suspends him until July, 1868, with loss of pay, is hereby commuted as follows: That he will rejoin his class at the U. S. Military Academy, and remain until they graduate, when, if his conduct in the meantime is satisfactory to the Superintendent of the Military Academy, this sentence is hereby revoked from the date of this order; otherwise the sentence of the court will be carried into execution.

ANDREW JOHNSON.

II. Cadet William P. Clark will return to West Point and report to the Superintendent of the Military Academy, in accordance with the President's order.

By command of General Grant:

E. D. TOWNSEND,
Assistant Adjutant General.

WEST POINT, N. Y., *January* 28, 1871.

Cadet HENRY WALKER sworn and examined.

By Mr. ASPER:

Question. State your age, residence, and position here.—Answer. I am 23 years old, reside at No. 736 Broadway, Albany, and am corporal, B company, third class corps of cadets.

Q. You were corporal in charge on the night of the 2d of January?—A. Yes, sir; I was corporal of the first relief.

Q. We desire to examine you touching the affair of that evening; please state briefly what you know about it.—A. My attention was called to it by a member of my class

who said that the sentinel on number two was making some trouble with the occupants of one of the rooms; I went to him and he stated that one of the rooms had reported "all right," and he knew it was not all right; I told him he should report it "all right" as he received it, even if he knew it was not all right; I then went to Flickinger's room and asked him what was the matter, and he said, "That damned fool Baird is down at Buttermilk, drunk." I told him I would report all right for him but I don't know that it is all right; I told him to report not all right, as his classmate would be reported for being away, and that they could get the report off by going on pledge; he, however, reported all right to the sentinel, but in such a manner as to awaken suspicion; Baird, before going to Buttermilk, stated that he would be pretty careful not to get "hived," and that if Flickinger reported all right he, Flickinger, would not get into trouble by it.

Q. How do you know these facts?—A. From what Flickinger told me himself, and from what Webster, E. K., of the other class told me; he said that he was in the room in the afternoon; I knew Baird was not in his room when Flickinger reported all right.

Q. How did you know that?—A. I had seen him intoxicated in the afternoon, and I knew that he was not in his quarters.

Q. How did you know it?—A. I knew it from my own knowledge.

Q. You didn't see him away?—A. I saw him going away in citizen's clothing.

Q. You reported it to the officer of the guard and officer of the day?—A. Yes, sir; and they reported it to the commandant, and the boys were put in arrest.

WEST POINT, N. Y., *January* 28, 1871.

General T. G. PITCHER recalled and examined.

By Mr. SLOCUM:

Question. Have you the letter sent by Baird and Flickinger to you?—Answer. Yes, sir; I received it by mail, and immediately on its receipt sent an officer to bring them back.

The following is the letter referred to by General Pitcher:

POUGHKEEPSIE, N. Y., *January* 5, 1871.

SIR: We, the undersigned, do state that we have not willingly deserted, but were forcibly driven off the Point by the first class U. S. Military Academy. They entered our room about midnight on the 3d instant, calling us by various opprobrious names, forcing us to put on such articles of clothing as we could in the brief time they allowed us; after which they took us beyond Fort Putnam. They then told us that it was the first class U. S. Military Academy that was sending us away, threatening to tar and feather us if we ever returned to the Point. For that reason we have not dared to return. We are not provided with proper clothing for this time of year, and have very little money. We would respectfully ask permission to be allowed to resign, or to be dismissed for absence without leave, as we are not really guilty of desertion. If our accounts could be settled immediately it would be a great advantage to us, as we are destitute of means to proceed any further.

Very respectfully, your obedient servants,

ENOCH H. FLICKINGER.
W. BAIRD.

General PITCHER,
Superintendent U. S. Military Academy.
Address E. H. Flickinger or W. Baird, box 656, Poughkeepsie, New York.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 29.

SETTLERS ON CERTAIN LANDS IN CALIFORNIA.

FEBRUARY 8, 1871.—Ordered to be printed and recommitted to the Committee on Private Land Claims.

Mr. MAYHAM, a sub-committee of the Committee on Private Land Claims, submitted the following

REPORT.

[To accompany bill H. R. No. 2037.]

The undersigned, Sub-committee on Private Land Claims, to which was referred House bill No. 2037, makes the following report:

I. In 1835 the Laguna de la Marced was granted by the Mexican government to one Antonio Galindo, and was described in the grant as follows:

1st. Commencing at the river Con de San Bruno, on the northeast corner of the rancho Buriburi, at low-water mark on the shore of the bay of Francisco, thence westerly, in a straight line, along the north boundaries of the rancho Buriburi, through the Laguna Alta, to the ocean; 2d. Commencing again at the first station, thence in a straight line to the top of the hill of San Bruno, thence along the ridge of the range of hills extending thence in nearly a northern direction to the portezuelo or hollow, where the road leading from San José to San Francisco crosses the range of said hills; 3d. Thence north 30° 50′ west, in a straight line to the ocean; and 4th. Along the beach of the ocean to the terminating point of the first above-described line, containing a little more than one league from north to south, and a half league from east to west, more or less.

On the 27th of September, 1835, a grant was issued by the Mexican government to said Galindo for said land, who immediately took possession thereof, and on the 12th of May, 1837, conveyed the same to Don Francisco de Haro.

On the 16th of March, 1852, De Haro having died, his heirs filed their petition before the board of California land commissioners in California, under the act of March 3, 1851, praying a confirmation of their title to the above grant, and the same was confirmed for one-half league, the amount called for in the grant.

On the 3d day of June, 1863, the district court of the northern district of California made a decree whereby they confirmed the title of the petitioners to the land under said grant, but restricted the same to one-half league, and described the same as follows: "A tract of land shall be located and surveyed within the exterior bounds named in the grant, which tract shall be measured by north, south, east, and west lines, so as to include a tract of half a square league, being one league from north to south, and one-half league from east to west."

On the 27th of July, 1863, a survey pursuant to said decree was presented to the said district court and duly confirmed.

By this decree and determination, a large tract of land now in controversy, and lying within the exterior bounds of the De Haro grant, but not confirmed to the representatives of De Haro, became United States lands, unless the same were embraced within a grant made by the Mexican government to Jacob P. Lees on his petition filed in that government on the 14th day of November, 1839. That grant is described in the petition as bounded on the west by the road as far as the mountain pass; on the south, by the rancho of Francisco Haro and that of José Sanches, and on the east by the sea.

At this time the range of mountains of San Bruno seems to have been understood as the eastern boundary of the De Haro ranch, and that does not seem to have been disputed by any one until the decree of the district court limiting the extent of that ranch to one by one-half league.

If this view of the case be correct, then at the time of the grant of the Visitation ranch to Jacob P. Lees it was intended to extend only to the top of the range of the San Bruno Mountains, and embraced none of these lands which are now the subject of controversy.

On the 1st of June, 1854, the surveyor general of the United States entered on said land and townshiped and sectionized the same as public lands of the United States, and sent to the General Land Office in Washington, and the local land office in California, the survey for record; and the Land Office gave notice to the settlers that all preëmptors residing on said land must appear at the land office in California and enter their respective claims on said plats, according to existing laws of the United States, which notice was complied with by many of the residents on said lands; that in January, 1858, notice was given to the occupants to prove up their preëmptions, and pay the United States for the lands, which was also complied with by many of the settlers, and payments were made to and certificates granted by the United States for said lands.

By the act of March 3, 1851, all foreign land grants in California were required to be presented to the board of California land commissioners for adjudication by said board as to the validity of said grants; that about the year 1855 the owners of the Visitation ranch, in the name of Henry Payson, presented to the board of California land commissioners the Visitation Mexican grant for confirmation, and the same was confirmed on the 30th of January of that year.

That the decree of the board was confirmed by the United States district court for the northern district of California on the 18th day of June, 1856, and said district court, on the 1st of April, 1857, recorded a final decree of confirmation on information from the United States Attorney General, that no appeal would be taken to the United States Supreme Court. While these proceedings were pending before the district court, the petitioners in possession of the land within the exterior bounds of the De Haro grant, which had been surveyed by the United States as Government lands, and claiming under the United States preemption laws, intervened, and by their counsel and through the United States district attorney opposed the confirmation of said survey, and applied to the district attorney to appeal from said confirmation to the Supreme Court; but that officer, who was alone authorized by law to appeal for the intervenors, declined to do so, and stipulated not to appeal.

The patent issued by the United States to the claimants of the Visitation ranch excepted from its operation the rights of "third parties" on said land, but it is claimed by patentees that the patent is conclusive as to the extent of said ranch, and as the patent is issued to confirm a foreign land grant, no lands within its limits were ever subject to entry

under the United States preëmption laws, and that therefore the preëmptors got no rights as against them by their preëmption, and cite section 6, of the act of March 3, 1853, providing for the survey of California lands, in support of that position.

That the decision of the district court confirming the survey of the Visitation rancho, is *res judicata* as to the occupants of this land, who had the right to intervene, and who did intervene by counsel, and failed to appeal, although they were not parties to the record, and were in possession, claiming as preëmptors at the time of that adjudication.

That the patent is conclusive evidence of title in the patentee in an action at law, and cannot be impeached in an action of ejectment, and that under it they have vested rights that cannot be divested even by an act of Congress.

The petitioners insist that the right of the United States to these lands, after they were decided not to belong to the De Haro grant, and at the time they were sectionized by the United States, and preëmpted by them, was undisputed, and that they were not embraced in or properly claimed under a foreign land grant.

That as they were in the possession of these lands at the time of this adjudication under a right previously acquired of the United States, and were not parties to the record in that adjudication, so as to be in a situation to control the same and appeal, they have not had their day in court, and cannot be concluded by that adjudication.

That the patent now held by the patentees or their assigns is a cloud upon their title, and conclusive evidence against them in an action of ejectment by the patentees or their assigns, and that they should be permitted to go behind this patent; and interpose their equitable claim to these lands, and controvert the correctness of the line of this ranch.

In the case of the United States *vs.* Josepha de Haro *et al.*, determined in the Supreme Court of the United States in December, 1865, the court allow the preëmptors of lands claimed by De Haro to be within the foreign land grant to contest as to the extent of said grant, and by its judgment upheld the claim of the preëmptors, although at the time of the preëmption the claimants under the foreign grant were prosecuting their claim to said land.

From this and other decisions upon this question it would seem that the United States Government does not regard itself concluded from treating as Government land lands claimed by grantees under a foreign grant, except to the extent of the lands actually granted to such grantees.

The preëmption rights of the preëmptors were therefore valid, unless the lands preëmpted were in fact within the Visitation ranch, and that question the preëmptors should be permitted to try, unless they are barred by the adjudication already had. Was that adjudication a bar, or so far conclusive upon the preëmptors as to preclude them from attacking the location of this line, collaterally, in a direct proceeding between the patentee and the preëmptors; and, if not, then have the patentees acquired, under the patent, such vested rights as to estop Congress and the courts from correcting the error, if any existed, as between the preëmptors and patentees?

It is a well-settled general principle of law, that a judgment is a bar only as between parties to the record and their privies; and as the preemptors had as such a valid right as against the United States, they were not the privies of the United States, and would not in that character be bound by an adjudication between the United States and the patentee of the Visitation rancho.

But by the thirteenth section of the act of March 3, 1851, it is provided

that if the right of the claimants under a grant shall be contested by any other person, such person may file his petition with the judge of the district court, setting forth his claim, and may have an injunction restraining the Commissioner of the Land Office from issuing a patent pursuant to the confirmation of any survey or grant until the rights of such other person can be determined. Had the preëmptors availed themselves of that provision they might have fully presented their case and had the same adjudicated before the court without the aid of the district attorney. But it appears that they were not bound to do this, and by section 15 of the same act the determination is conclusive only as to the rights of the claimant and the United States; and by section 3 of the act of June 14, 1860, it seems that preëmptors are required to appear through the district attorney intervening in the name of the United States on appeals to the Supreme Court.

On the whole the preëmptors do not appear to be parties to the survey and confirmation of the boundaries of the Visitation rancho to such an extent as to be barred of their equitable rights. And this view is strengthened by the recommendation of the Commissioner of the General Land Office to the Secretary of the Interior in his communication of the 20th November, 1869, recommending a suit in chancery in the name of the United States, but at the expense of the parties, to settle this controversy.

It is therefore recommended that an act be passed allowing all persons, whether as preëmptors or settlers, under any grant or title on any lands within the exterior bounds of the patent granted by the United States Land Office in confirmation of the Mexican grant known as the rancho Cañada de Guadalupe la Visitacion Rodeo Viejo, in the county of San Mateo, and State of California, the right in all courts to contest the correctness of the location of the lines of said patent as confirmed by the United States district court of the northern district of California to the parties claiming said ranch, notwithstanding any official or approved survey made or hereafter to be made of the same; and that House of Representatives bill No. 2037, referred to this committee, be so amended as to conform to this recommendation, and, as so amended, do pass.

S. L. MAYHAM,
Sub-Committee.

APPENDIX.

DEPARTMENT OF THE INTERIOR,
General Land Office, December 15, 1870.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed are true and literal exemplifications of the following:

1st. On pages 1 and 2, the transcript petition of Jacob P. Leese, and the transcript marginal order of Castro, as the same are found on pages 127 and 128, volume 17, of the transcript record of evidence of the California land commission on file in this office.

2d. Of an unauthenticated diagram accompanying a letter dated 2d July, 1859, from the surveyor general of California, in which letter it is stated that the diagram sent up is not known to him "as an authentic or official paper."

[Diagram accompanies the MS. copy of this paper.]

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

JOS. S. WILSON,
Commissioner of the General Land Office.

No. 142.	1839.
Claim of Robert S. Eaton.	Espediente, instituted by Jacob Leese, soliciting the tract of land known by the name of "Cañada de Guadalupe and Visitacion."
	245.
Cañada de Guadalupe Visitacion y Rodeo Viejo.	Stamp fourth, one-fourth of a real, provisionally authorized by the maritime custom-house of Monterey for the years 1839 and 1840. ALVARADO. [SEAL.] ANTONIO MA. OSIO.
"Espediente." Translation.	SAN JUAN DE CASTRO, *November* 16, 1839.—Let the justice of the peace of San Francisco report on the subject-matter of this petition. CASTRO.
	MOST EXCELLENT SIR: The citizen Jacobo Luis de Leese, before your excellency, with due respect and in due form of law, appears and says, that being desirous to have a place for the purpose of breeding meat cattle and horses thereon, he asks the place called "La Cañada de Guadalupe y Visitacion," situated in the bend formed by the hill of San Bruno, distant about one league from the mission of San Francisco, according to annexed sketch, excepting the "Rincon de las Salinas," as therein shown; the boundaries to be, on the north, the said "Rincon;" on the west, the main road as far as the mountain pass, (Portezuelo;) on the south, the rancho of Francisco Haro and that of José Sanchez; and on the east, the sea. Therefore I pray your excellency that you be pleased to accede to my application, and I shall be in duty bound, &c. I swear it is not in malice, &c. JACOB P. LEESE. MONTEREY, *November* 14, 1839.

GENERAL LAND OFFICE, *February* 25, 1870.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed on pages one to six inclusive is a true and literal exemplification of the certified transcript now on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] JOS. S. WILSON,
Commissioner of the General Land Office.

*In the district court of the United States of America for the northern district of California. 1]

THE UNITED STATES, appellants, *vs.* HENRY R. PAYSON, appellee. } Decree No. 285, Rancho "La Visitacion Cañada de Guadalupe y Rodeo Viejo."

Stated term, June 18, 1856.

On appeal from the final decision of the board of land commissioners to ascertain and settle private land claims in the State of California, this cause came on to be heard at the stated term of the court, on appeal from the final decision of the board of commissioners to ascertain and settle private land claims in the State of California, under an act of Congress, approved on the 3d day of March, 1851, upon the transcript of the proceedings and decision of the said board of commissioners, and the papers and evidence on which the said decision was founded; and it appearing to the court that the said transcript has been duly filed according to law, and counsel for the respective *parties having been heard, it is by the court hereby ordered, adjudged, and decreed that the said decision be, and the same is hereby, in all things affirmed. [2

And it is likewise further ordered, adjudged, and decreed that the claim of the appellee is a good and valid claim, and that the said claim be confirmed; and that the

land of which confirmation is hereby made, is known by the name of Cañada de Guadalupe la Visitacion y Rodeo Viejo, granted to, and formerly occupied by, Jacob P. Leese, situated in San Francisco County, and bounded as follows, to wit: On the east by the waters of the bay of San Francisco; on the west by the Camnio Real, as the same was located at the time said land was granted, and the Porto Zuelo; on the north by the land known as the rancho of Don Cornelio Bernal; and on the south by the rancho of Don José Sanches, being the same land described in the grant to said Leese,
and represented as such on the map attached to and forming a part of the traced
3] copy of the espediente on file *in this case, and to which grant and map reference
is to be had for further description of said premises, the same containing about two sqnare leagues of land. Excepting and reserving therefrom, and from this confirmation, all that portion of the above-described premises which is described and bounded as follows, to wit: Commencing where a stake has been planted in the valley known as Visitacion Valley, on the western side of a large gray rock in and on the borders of the bay of San Francisco, said rock being the most southerly of a cluster of three, and rather flat and low compared with the other two, and bearing north forty-five degrees thirty minutes west, and distant six feet from side border; thence on same bearing north forty-five degrees thirty minutes west five chains twenty-seven links; thence north eighty-two degrees fifteen minutes west four chains and forty-seven links; thence north eighty degrees thirty minutes west nine chains seventy-six links; thence north eighty-two degrees
fifteen minutes west three chains ninety-eight and a half links; thence south
4] eighty-nine degrees thirty minutes west *twenty-one chains forty-seven and a half
links; thence north eighty degrees west nineteen chains; thence north eighty-seven degrees thirty minutes west forty-two chains fifteen and a half links; thence north eighty-five degrees west forty-seven chains twenty links; thence south five degrees thirty minutes east twenty-seven chains thirty links; thence south five degrees west thirty-four chains seventy-nine links; thence south fifty degrees east forty-five chains thirty-five links; thence north eighty degrees thirty minutes east seven chains ninety-six links; thence east thirty-seven chains thirty-seven links; thence south seventy-five degrees thirty minutes east forty-four chains sixty links; thence north eighteen degrees east, to place of beginning, containing, in all, seven hundred acres, more or less, and being the same premises heretofore confirmed by decree of the said board of commissioners to Robert S. Eastoro.

OGDEN HOFFMAN,
United States District Judge.

Indorsed: Filed June 18, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

5] *At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco on Wednesday the first day of April, in the year of our Lord one thousand eight hundred and fifty-seven:

Present, the Hon. Ogden Hoffman, district judge.

THE UNITED STATES
vs.
HENRY K. PAYSON. } D. C. 285. L. C. 745.

The Attorney General of the United States having given notice that appeal will not be prosecuted in this case, and a stipulation having been entered into to that effect, on motion of the district attorney it is hereby ordered, adjudged, and decreed that claimant have leave to proceed under the decree of this court heretofore rendered in his favor, as under final decree.

OGDEN HOFFMAN,
United States District Judge.

Indorsed: Filed April 1st, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

6] *I, John A. Monroe, clerk of the district court of the United States for the northern district of California, do hereby certify that the writings annexed to this certificate are full, true, and correct copies of their respective originals, now on file and remaining on record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of the
[L. S.] said court, this 16th day of April, A. D. 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

DEPARTMENT OF JUSTICE,
Washington, February 3, 1871.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th ultimo, and to inform you that upon an examination of the files of this Department it does not appear that any general order has been issued relative to the decisions of the district court of the United States for the district of California in Mexican land grant cases.

The following is an extract from a letter upon the subject, written by Mr. Attorney General Stanton, on the 28th of February, 1861, to P. Della Torre, esq., special counsel of the United States in these cases:

"I authorize and direct you as special counsel of the United States to take appeals in all cases in which decisions have been made against the United States, where appeals have not been entered, and request you to see that the appeals are entered without delay, and that the transcripts are made out and forwarded to this office, to be entered in the Supreme Court."

I am, sir, very respectfully, your obedient servant,

A. T. AKERMAN,
Attorney General.

Hon. STEPHEN L. MAYHAM,
Sub-Committee Private Land Claims, House of Representatives.

In the district court of the United States for the northern district of California.—Notice of motion to approve survey.

THE UNITED STATES *vs.* HENRY R. PAYSON. } Land Case, No. 285.

You will please to take notice, that on Wednesday the 16th day of March instant, at the opening of the court on that day, or as soon thereafter as counsel can be heard, I shall move the court to approve the survey and location of the land confirmed in this case, as shown by the plat thereof, approved by the surveyor general of the United States for California, March 11, 1864, and filed herein March 12, 1864. And shall further move the court to enter a decree of approval and confirmation of such survey and location.

Dated San Francisco, March 12, 1864.

Yours, &c.,

ALFRED WHEELER,
Attorney for Claimant and Intervenor.

WM. H. SHARP, *United States Attorney.*
H. H. HAIGHT, *Attorney for Intervenors.*
J. B. WILLIAMS, *Attorney for Intervenors.*
SHARP & LLOYD, *Attorney for Intervenors.*
W. H. SHARP, *Attorney for Intervenors.*
EUGENE LIES, *Attorney for Intervenors.*

Due service of copy of within notice is hereby admitted.
SAN FRANCISCO, *March* 12, 1864.

W. H. SHARP,
United States Attorney.
WM. H. CLARK, *Pro Se.*
EUGENE LIES,
For Brown & Cobb, Intervenors.
H. H. HAIGHT,
For Mills et al.
SOL. A. SHARP,
For same intervenors.
GEO. PENN. JOHNSON,
For Seef, Gwin & Walbridge.

Indorsed: Filed March 16, 1864.

W. H. CHEVERS, *Clerk.*

In the United States district court for the northern district of California.—Stipulation waiving right of appeal.

THE UNITED STATES *vs.* HENRY R. PAYSON. } Land Case, No. 285.

In this case it is hereby stipulated and agreed that the survey and plat thereof, and the location of the land, the claim to which has been confirmed in this case, which sur-

vey, plat, and location were made by the surveyor general of the United States for California, according to the plat of said land filed in this case on the 12th day of March, 1864, the same being in accordance with the decree of this court, made and filed herein on the 19th day of February, 1864, may be approved by the court, and a decree of this court entered approving such survey and location.

And it is further stipulated and agreed, that on the entering of such decree of approval, the survey so approved shall be regarded as finally approved and determined, and all right of appeal therefrom is hereby waived.

Dated SAN FRANCISCO, *March* 12, 1864.

ALFRED WHEELER,
Attorney for Claimant and for Intervenor Wheeler.
J. B. WILLIAMS,
Attorney for Intervenors Johnson et al.
WM. H. SHARP,
United States Attorney.
SHARP & LLOYD,
For Schad & Schmerin, and Cabarness, Intervenors.
WM. H. CLARK, *pro se.*
H. H. HAIGHT,
For Mills and others, Intervenors.

Indorsed: Filed July 8, 1864.

W. H. CHEVERS, *Clerk.*

In the United States district court for the northern district of California.—Order declaring approval of survey final.

THE UNITED STATES *vs.* HENRY R. PAYSON. } Land case No. 285.

On reading and filing stipulation in this case, signed by all the parties and intervenors herein, waiving all right of appeal from the decree of this court approving the survey and location of the land confirmed in this case, according to the plat of said land filed herein March 12, 1864; and also stipulating that said survey, so approved, shall be regarded as finally approved and determined: Now, therefore, it is hereby ordered and decreed, that the decree of approval made in this case as aforesaid, and to which is attached the plat of said approved survey, be, and the same is, declared final, and the said survey and location of said land finally determined and approved.

OGDEN HOFFMAN,
District Judge.

Indorsed: Filed July 9, 1864.

W. H. CHEVERS, *Clerk.*

I, William H. Chevers, clerk of the district court of the United States for the northern district of California, do hereby certify the foregoing to be full, true, and correct copies of their respective originals, now on file and remaining of record in my office, in the cause entitled The United States *vs.* Henry R. Payson, No. 285.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court this 17th day of September, A. D. 1864.

[SEAL.] W. H. CHEVERS, *Clerk.*

GENERAL LAND OFFICE, *February* 2, 1871.

I, W. W. Curtis, Acting Commissioner of the General Land Office, do hereby certify that the annexed, on pages 1 and 2, is correctly copied from a transcript of the original, duly authenticated by the United States surveyor general of California, which transcript constituted, in part, the basis of the patent for the private land claim in California known as the part of the rancho Cañada de Guadalupe la Visitacion y Rodeo Viejo, finally confirmed to Henry R. Payson.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[SEAL.] W. W. CURTIS,
Acting Commissioner of the General Land Office.

1] *At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Fran-

cisco, on Wednesday the first day of April, in the year of our Lord one thousand eight hundred and fifty-seven:

Present, the Hon. Ogden Hoffman, district judge.

THE UNITED STATES *vs.* HENRY K. PAYSON. } D. C. 285; L. C. 745.

The Attorney General of the United States having given notice that appeal will not be prosecuted in this case, and a stipulation having been entered into to that effect, on motion of the district attorney it is hereby ordered, adjudged, and decreed, that claimant have leave to proceed under the decree of this court heretofore rendered in his favor, as under final decree.

OGDEN HOFFMAN,
United States District Judge.

*Indorsed: Filed April 1, 1857. [2

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.

I, John A. Monroe, clerk of the district court of the United States for the northern district of California, do hereby certify that the writings annexed to this certificate are full, true, and correct copies of their respective originals now on file, and remaining of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court this 16th day of April, A. D. 1857.

[L. S.]

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.

GENERAL LAND OFFICE, *March* 2, 1865.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the annexed, on pages one, two, three, four, and five, is a true and literal exemplification of the original on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[SEAL.]

J. M. EDMUNDS,
Commissioner of the General Land Office.

*In the district court of the United States for the northern district of California. [1

UNITED STATES *vs.* HENRY R. PAYSON, } Land case No. 285.

Deposition of Charles Clark and Israel G. Knowles.

County of San Mateo, ss:

Charles Clark, being duly sworn, deposes and says that he (deponent) is a citizen of the United States, of the age of twenty-one years, and a resident of San Mateo County, State of California, and that on or about the first of November, A. D. 1852, deponent entered and took possession of a certain tract of vacant land in said county aforesaid. The said land was pointed out to deponent by Francisco Sanche, now deceased. He, the said Sanch, pointed out to deponent the boundaries of the Burnburor rancho as lying on the south; also pointed out the Las Visitation on the east as bounded on the top of San Bruno Mountain. On or about six months from the date aforesaid deponent entered on said land, and employed the county surveyor to survey the said land in accordance with *an act of the legislature of the State of California, passed [2 April 20th, A. D. 1852, for the protection of settlers of public lands. Said surveyor commenced surveying, and with the aid of De La Cruse Sancho and Francisco Sanches, who were owners of one-tenth part each of said rancho at the time the said surveyor was on the ground, they, the said Sanches, pointed out to the said surveyor the lines of the afore-mentioned rancho, by maps and papers and by accompanying him on the ground. Said surveyor then, with the aid of all the papers and maps of the adjoining ranchos, townsh*h*iped and sectionized the land, which is located in township 3 south, range 5 west. Fractions two and three and northwest quarter of southwest quarter and southwest quarter of the northwest quarter of section seven, containing $187\frac{62}{100}$ acres. That after the lines of the surveyor were run deponent commenced fencing, and completed the fencing on the outline of his, deponent, said land, and at different times since deponent has made partition fences and buildings on said tract of

land. That deponent has expended the sum of five thousand dollars in making improvements on said land, and has resided upon the same up to the present time.

3] *That on or about the first of June, A. D. 1854, the surveyor general of the United States for California entered on the said land, and townshiped and sectionized the same as public lands of the United States. Said surveyor general approved the said plats, and sent one to the General Land Office at Washington and one to the local land office at Benetia, California, for record, and after the said plats were recorded. The land officer, Colonel Gift, issued a notice in the daily papers of San Francisco that all preëmtors that resided on the afore-mentioned tract of land must come forward to the land office at Benetia, California, and enter their respective claims on said plats, according to existing laws of the United States. Deponent did so enter within the three months prescribed in said notice. Deponent further avers that in January, A. D. 1858, deponent was informed by the land officer then at San Francisco, California, that it was necessary for deponent to come to the land office and prove up his (deponent's) claim and pay the Government for the land. Deponent did so, and received a certificate of purchase of the Government of the United States. Deponent has the

4] same at the present time in his possession. *Deponent further avers that on or about the year 1860 the present claimants of the ranchos Las Visitation and Burnburor caused a survey to be made of the said ranchos, and brought the same into the district court of the northern district California for approval. The said surveys mentioned above includes some nine families in said surveys; said families are located outside of the exterior bounds of the grants, as can be shown on said dezaneos and petitions of said ranchmen, although said preëmtors have, from the inception of this case, been represented on the record of the United States district court by counsel, & although said case has for years past been pending on rehearings granted on the application of said preëmtors' counsel, yet the grant claimants have, by stipulation between themselves and the district attorney, entered into an agreement, without notice to the preëmtors or their said counsel, and have established a bound called a B. B. Stake No. 2, w.. ch divides the lands of these families in about equal proportions among the aforementioned Spanish claimants, the same being Government land and containing

5] 1,500 acres, as can be shown *by said original maps and papers connected with the two ranchos, and that a decree of the district court was entered in accordance with said stipulations. Deponent further ayers that the time for appealing from said decree of said district court has not yet past. That deponent and others are prosecuting, as far as they legally can, an appeal from the said district court to the circuit court of the United States for said district.

Wherefore said deponent and others pray that the issuing of the patent to said claimants be stayed till the proper officers of the Government can be informed of the real facts and merits of the rights of deponent and others, and so as to afford sufficient time for the determination of the appeal as aforesaid, which said appeal deponent and others are prosecuting.

CHARLES CLARK.
ISRAEL G. KNOWLES.

Subscribed and sworn to before me this 12th day of October, A. D. 1864.
[SEAL.]
W. O. ANDREWS,
Notary Public.

Affidavit of James Graves.

State of California, City and County of San Francisco, ss:

James Graves, being duly sworn according to law, says that he is a citizen of the United States, over twenty-one years of age, and has resided in San Francisco, California, for twenty years last. Deponent further says that prior to the making of the survey by the United States, which was finally approved, of the rancho Cañada de Guadalupe Rodeo Viejo y Visitacion, which was granted to Jacob P. Leese by theMexican government, he purchased an interest in said grant from the owners; that, at the time, this deponent had the lines pointed out to him by the persons owning said rancho, or some of them, and had the title papers examined; that it was then stated to him by parties owning the ranch that the line commenced at the bay of San Francisco, and it was bounded on the southeast by the bay, on the northeast by the Bernal ranch, and on the west by the Camino Real, or old road, and following said road as far as the Portezuelo, or pass or gap in the San Bruno Mountain; that the said line then turned nearly at right angles and ran along the San Bruno Mountain to the bay of San Francisco to Point San Bruno, where said line intersects with the northern line of the Buri Buri rancho, and which is the extreme southern point of the Visitacion rancho; that the title papers, in the opinion of affiant, corresponded with the claim of the parties. Affiant further says that he has since parted with his interest. Affiant further says that when the survey was before the United States court he testified substantially to

these facts as near as he can now recollect; that at that time Charles Clark, I. G. Knowles, A. C. Willard, and J. E. King, and others, who claimed to be settlers on the public land, were trying to confine the survey and prevent its going west of the San Bruno Mountain. Deponent says that he is acquainted with all these parties, and the widow of said King, who represents her husband's estate, and her children, who are heirs of J. E. King; he also knew John Sanderson and John G. Cooper, and knew where they lived, and that they lived outside of and west of the lines as pointed out to him when he bought, and what he understood to be the correct lines; that the survey, as approved by the United States court, passes entirely beyond the Portezuelo and west of the San Bruno Mountain into the valley and toward the Pacific Ocean. Deponent says that the survey, as approved by the United States district court, includes land that was represented to him to be outside of the grant, and which he never thought was inside of it when he owned in it. Deponent says that he knows that Clark and others contested that survey, and expended money to defeat it, and that he knows that Clark particularly was very anxious to appeal the case to the Supreme Court of the United States, and he called with Clark upon the district attorney for that purpose, and he thought it was to be appealed, but he now does not remember what passed, except that he thought the case was to be appealed. Deponent further says that he understood that all of the parties on the public lands were anxious to appeal the case, as well as Clark, but he knows more particularly about Clark because he was better acquainted with him.

JAMES GRAVES.

Subscribed and sworn to before me, this 2d day of May, A. D. 1870.
[SEAL.] J. W. McKENZIE,
Notary Public.

Affidavit of Israel G. Knowles.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

I. G. Knowles, being duly sworn according to law, does, upon his oath, say, that he settled upon lands belonging to the Government of the United States in 1853; that prior to settling he took particular pains to ascertain that it was public land, and not within the exterior limits of any Mexican grant; that then the land was not worth more than the Government price; that afterward land became valuable, and every grant in his neighborhood, that could, claimed his land as belonging to it; that among other grants that it was pretended covered his land was the Visitation grant; that he with others went to Tully R. Wise, who was then acting for the United States as district attorney, and he, after examining the case, filed exceptions to the survey, on behalf of the United States. Affiant further says that he, with Charles Clark and other settlers west and south of the San Bruno Mountain, procured witnesses, paid their expenses, and helped to investigate that survey; that after said Wise ceased to be United States district attorney they employed him to assist the new district attorney, Calhoun Benham; that subsequently Wise left, and they employed Williams to aid Mr. William H. Sharp, United States district attorney after Benham; that after the survey was decided upon by Judge Hoffman, said Sharp distinctly promised to affiant, and to Mr. Clark, and to others, to appeal said case to the Supreme Court of the United States; that afterward affiant learned that the district attorney had agreed *not* to appeal the case, and he went to said attorney and found a stipulation to that effect had been entered into; that somebody had signed the name of Williams to said stipulation, and that said Williams was not then in California; that said Williams had a standing in the case, as an attorney for a claimant whose interest was not affected by settlers living south and west of the San Bruno Mountain. And affiant further says that when he asked Mr. Sharp why he had not appealed the case according to promise, he said that the Government had no interest in it, and that the cost was great. Affiant says that he then told him if he would appeal that case he would pay all expenses and give security for all costs; and that prior to his so stipulating he so stated to Mr. Sharp. Affiant further says that he is advised by counsel that the survey is wrong, and he believes it is; that it ought to be confined to the top of the San Bruno Mountain, and instead of that it runs over it. Affiant further says that he tried to induce Mr. Sharp to appeal that case, but could not; that he got an affidavit from Williams about signing the stipulation, and made every effort to get the case opened, but without success; that he could not appear by counsel or in person, because the law only authorized him to appear by the United States district attorney. Affiant further says that he is now in possession of a piece of land claimed by the Visitation grant owners, and to which they have a patent, and that he has also a patent under a preëmption purchase, and that if the said survey is permitted to stand he is advised that it will cause him a great deal of trouble; that a suit is now pending to recover it of him. Affiant further says that

he has made every effort to get clear of that survey, but without success, and that he has consulted and employed a great many attorneys, and they all say that only by action of the Government can anything be done.

ISRAEL G. KNOWLES.

Subscribed and sworn to this 15th day of March, A. D. 1870, before me.

EDW. B. COTTER,
U. S. Commissioner.

Affidavit of Charles Clark.

Charles Clark, being duly sworn according to law, says he is a citizen of the United States, over the age of twenty-one years, and has resided in San Mateo County, California, more than eighteen years; and, since his residence in said county, that he took up a piece of Government land, which he has paid the Government for, and to which he has had several lawsuits and controversies, both in the United States and State of California courts, and among those controversies have been the claimants of the Visitation rancho. Deponent says he has had several conversations with Mr. Theller, the agent of Pioch & Byrk, and that said Theller informed him that the Visitation rancho proper never extended any further west than the top of San Bruno Mountain, and that Pioch & Byrk never claimed any further west than the Porteznelo, and top San Bruno; and that Alfred Wheeler had caused the extension of said grant west of Portezuelo and San Bruno Mountain. Deponent further avers that he was informed that some parties were about to put up his land into a homestead without his knowledge or consent, wherefore deponent went to the Morning Call, a daily paper printed in the city of San Francisco, notifying and forbidding all persons from buying any of said land, as he had purchased the same land of the United States, and had resided on the same for more than eighteen years; and that all of said improvements on his land were made by himself; and also that all the improvements put on said land, the Visitation, west of San Bruno Mountain, were put there by the settlers, and not by the claimants of Visitation rancho. Deponent says he filed an affidavit some time in the year 1864, and forwarded the same to the Commissioner of the General Land Office, at Washington, before a patent was issued to the Visitation claimants, which states all the facts connected with the case up to that time, and to which affidavit is now submitted to Congress, and, therefore, deponent makes this affidavit, as the above matters have transpired since the date of his first affidavit.

CHAS. CLARK.

Subscribed and sworn to before me this 19th day of July, A. D. 1870.

F. J. THIBAULT,
Notary Public.

"*Notice to purchasers under the Abbey Homestead Land Association, and the public.*

"The undersigned respectfully notifies the public against purchasing any portion of land lying upon the fractions two and three, and northwest quarter of southwest quarter, and southwest quarter of northwest quarter of section seven, in township three south, of range five west. The portion referred to is included within the Abbey Homestead, as advertised by them for sale in city lots.

"I caution the public against purchasing the same. I have lived on the land in question more than sixteen years, in peaceable possession. I preëmpted the land of the Government, paid the Government for the same, and received a duplicate from said Government.

"CHARLES CLARK."

Affidavit of R. S. Thornton.

In the matter of the application of N. S. Murphy and others, to be permitted to use the name of the United States in a suit to be commenced against the owners of the rancho Cañada de Guadalupe La Visitacion y Rodeo Viejo.

R. S. Thornton makes the following statement: That he resides near the land in controversy, and is familiar with it and its history; that it is part of the land once claimed by Josefa de Haro et al., but which claim, having been rejected by the Supreme Court of the United States, was surveyed by the Government authorities and opened to settlement as public lands; that it was a strip of land lying between the above-mentioned Visitation rancho on the northeast and the Buri Buri rancho on the south; that the stipulation entered into on the 12th March, 1864, was intended to, and did inure only to

the benefit of the claimants under the Mexican grants, and did despoil and defraud the United States and the preëmptioners of their just rights; that by virtue of said stipulation, the intervenors, George Pen. Johnston, Schwerin, and others, secured what they claimed by purchase under the different Mexican grants. The claimants of the Visitation rancho and the Buri Buri rancho closed in and divided the aforesaid strip of land about equally between themselves, and the rights of the Government, as before determined in the De Haro case, as well as the rights of the preëmptioners, were totally ignored and disregarded.

Said Thornton further states that all of said settlers and preëmptioners have had possession of their respective claims for more than fifteen years, and some of them for eighteen years. One of these settlers, J. E. King, died, and his widow intermarried with Laswell, and they are still residing on their claim. Another, John E. S. Solomon, died, and by will devised all his estate to Nathaniel S. Murphy. During a part of the time proceedings were going on in the court in relation to the Visitation and Buri Buri ranchos, the settlers were permitted to appear by counsel; but neither they or their counsel were parties to the stipulation above mentioned, nor were they notified of it, nor would the district attorney, after the wrong was perpetrated, do anything to correct it, although requested to do so, and at one time promising to take an appeal to the Supreme Court for that purpose. After the decree of the district court in the Visitation survey case was rendered, the settlers in the strip of land in controversy, lying between the Buri Buri rancho, and which by that decision had, under the said stipulation, been divided about equally between them, went to see Mr. Sharp, the United States district attorney, with a view to having him take an appeal in behalf of the United States, and in their behalf, as claimants under the United States. I was present when Mr. Sharp promised them that an appeal would be taken on their behalf, and the record sent up to the Supreme Court of the United States. I went to Mr. Sharp's office afterward to see about this record in the appeal which had been promised, and I was then and there informed by Mr. Sharp's clerk (Thomas Jewett) that the record had been ordered by Mr. Sharp to be made out by him for said appeal, and that the said Jewett had been ordered to make it out. Why Mr. Sharp subsequently changed his mind on the subject I have no knowledge. I only know that he promised the settlers an appeal should be taken, but that no appeal was taken.

B. S. THORNTON.

Sworn and subscribed before me this 27th day of April, A. D. 1870.

N. CALLAN, *Notary Public.*

GENERAL LAND OFFICE, *January* 14, 1871.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed on file. 1 to 7, inclusive, is a true and literal exemplification of a letter dated November 20, 1869, addressed to Hon. J. D. Cox, Secretary of the Interior, as said letter is recorded, vol. 6, pp. 516 to 522, inclusive.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

JOS. S. WILSON,
Commissioner of the General Land Office.

* DEPARTMENT OF THE INTERIOR, [1
General Land Office, November 20, 1869.

Hon. J. D. COX, *Secretary of the Interior.*

SIR: I had the honor yesterday to receive by reference from the Department proper a communication from J. W. Denver, esq., in reference to an application, by Messrs. Hughes, Denver & Peck, on behalf of N. S. Murphy, esq., of California, for the recommendation of the Secretary to the U. S. Attorney General to instruct the United States district attorney for the district of California to institute inquiry with a view to filing a bill to set aside a patent issued to Henry R. Payson for a part of the rancho in California called "Cañada de Guadalupe la Visitacion y Rodeo Viejo," and have to report as follows from the records of this office:

1st. The claim was presented to the board of California land commissioners in the name of Henry Payson, and under date January 30, 1855, said board rendered a decree of confirmation in favor of the claimant, a copy of the opinion and decree of the board being herewith submitted, marked A.

2. The decree of the board was affirmed by the United States district court for the *northern district of California, June 18, 1856, and on notice from the [2
U. S. Attorney General that appeal to the U. S. Supreme Court would not be prosecuted, said district court on 1st April, 1857, rendered a final decree of confirmation upon *title*. Copy B, herewith.

3. Pursuant to these proceedings, and prior to 29th June, 1854, it appears a survey

of the ranch in question had been executed by the U. S. surveyor general, and there is on file here a township plat of t. 3 s., r. 5 w., Mt. Diablo meridian, California, approved 29th June, 1854, by the surveyor general of California, showing the subdivision of said fractional township; and under date April 5, 1859, Nathaniel S. Marphy preëmpted for cash the fractional S. W. ¼ of section 6, and fraction No. 1 of section 7, in said township; under the preëmption act of 3rd March, 1853. See copy of register's certificate and receiver's receipt No. 25, herewith, marked D, the whole of said fractional section 6 having also been selected by the State of California, July 1st, 1854, for internal improvement purposes under the act of 4th September, 1841.

It appears from a stipulation hereafter referred to that the aforesaid ranch survey was brought before the United States district court, where, by decree filed 19th February, 1864, it was rejected and set aside and a new survey ordered.

3] A new survey was accordingly returned *into court by the surveyor general, which was declared by judicial decree dated 16th March, 1864, to be in accordance with the order of this court heretofore made and entered; and said survey was accordingly "approved and confirmed" by the U. S. district court March 16th, 1864.

I enclose transcript (paper C) of the judicial proceedings *upon survey*, from which it appears that under date 8th July, 1864, there was filed in the district court a stipulation to the effect that the confirmatory decree of 16th March might be made final by decree of court, and waiving "all right of appeal" from such final decree, said stipulation and waiver being signed by "Alfred Wheeler, att'y for claimants, and for intervenors, Wheeler; J. B. Williams, att'y for intervenors Johnston *et al.;* W. H. Sharp, U. S. att'y; Sharp & Lloyd for Schad & Schiverin & Cabanes, intervenors; W. H. Clark, pro so.; H. H. Haight for Mills and others, intervenors." A decree of final approval was accordingly filed, July 9, 1864, said decree reciting that the "stipulation" filed the day previous was "signed by all the parties and intervenors herein."

4. The usual return of survey having been received here from the surveyor general of California, accompanied by duly *certified transcripts of the confirmatory judicial decrees hereinbefore mentioned under date 15th December, 1865,

4] patent was issued in favor of the confirmee, Henry R. Payson, for the tract so confirmed, the duties of this office in that respect being purely ministerial. Among the papers presented by Messrs. Hughes, Denver & Peck is the same statement of N. S. Murphy, in which it is alleged "that he, the said Murphy, together with other purchasers from the Government, on the return of said final survey, severally protested against the approval thereof, employed counsel to oppose the same before said district court, and used every exertion in their power to get the case appealed to the Supreme Court, but without success."

There is also an affidavit by John B. Williams, one of the parties whose name is found on the stipulation and waiver of appeal as attorney for intervenors Johnston et al., to the effect that he was attorney for Geo. Penn Johnston et al., intervenors, and also employed by Clark, *Murphy* and others, settlers, to aid the United States attorney to protect the rights of settlers; that during his absence from California his name was improperly signed to said stipulation by Johnston, so far as Clark, Murphy, and others, settlers, was concerned, although Johnston had a right, so far as his own

5] *interests were concerned, to sign the name of his attorney to said instrument.

It is further alleged in the affidavit of Mr. Williams "that on the return of affiant in July, 1864, he saw Mr. Sharp, then U. S. district attorney, at the request of said settlers, in relation to an appeal, who replied that in his opinion it was useless to carry up the case to the Supreme Court, and that he would not consent to vacate the stipulation, but would allow the survey to be finally approved."

From this showing it would seem that the recital, in the decree of confirmation of survey, that the stipulation, waiving all right of appeal to the Supreme Court, was "signed by all the parties and intervenors herein," is an error, the result of which was to defeat the efforts of parties who were intervenors to prosecute appeal to the United States Supreme Court.

It appears that the preëmption entry No. 35 of N. S. Murphy was made April 5th, 1859, upon frl. S. W. ¼ of sec. 6, & lot No. 1, sec. 7, tp. 3 S., r. 5 W., Mt. D. mer., which, however, was not made in the name of the actual settler, John E. L. Solomon, but by said Murphy as executor of said Solomon, dec'd, the testimony showing that said Solo-

6] mon settled in 1853, built a house, and was in actual possession of his *claim for a period of six months, when his home was torn down, and he was dispossessed by violence.

He again erected his house, and it was torn down a second time, by violence, whereupon, being in ill health, said Solomon removed to San Francisco, Cal'a and soon after died, 22nd April, 1865. That his D. S. was filed Oct. 14th, 1854, alleging settlement Feb'y 28th, 1854, and that such settlement is shown before the rendition of the decree by board of commissioners.

Under these circumstances it is recommended that the papers herewith filed by Messrs. Hughes, Denver & Peck, be transmitted by the Hon. Secretary of the Interior to the Attorney General with the recommendation that he instruct the U. S. district

attorney for the district of California to investigate the matter, and if it should appear to him, after due notice to all parties interested, that the legal representatives of the preëmption were not allowed to intervene, and not represented in waiver, and through no fault of their own, that they have unjustly been deprived of their legal right, then, and in that case, that the legal representatives of the said preëmptor be authorized, in a suit in chancery, to use the name of the United States in a bill to set aside the patent and survey *in favor of the confirmee, Henry R. Payson, to the extent [7
of the frl. S. W. ¼ of sec. 6, & lot 1 of sec. 7, tp. 3 S., r. 5 west. The whole proceedings to be at the expense of the complainants, and in no way involve cost to the United States.

The papers as indicated in the annexed schedule are herewith returned.

I have the honor to be, sir, with great respect, your obedient servant,

JOS. S. WILSON,
Commissioner.

Schedule.

1, 2, 3. Briefs of Messrs. Hughes, Denver & Peck.
4. Statement of Dr. N. S. Murphy.
5. Affidavit of John B. Williams.
6. Affidavit of Charles Brown.
7. Statement of Charles Clark.
8. Statement of Col. Leander Ransom.
9. Traced copy in Spanish, and translation, of a document forming part of a record in the surveyor general's office, in the case of the rancho "Cañada de Guadalupe y Visitacion," with map attached.
10. The traced copy plats, being first copy of township plat of township 3 south, range 5 west, approved by Surveyor General John C. Hays, June 29, 1854, second diagram from same plat on an enlarged scale, third diagram of the survey of rancho "Cañada de Guadalupe la Visitacion y Rodeo Viejo," as confirmed by court, showing also a survey of rancho "Laguna de la Merced."

GENERAL LAND OFFICE, *April* 19, 1870.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed, on pages one to four inclusive, is a true and literal exemplification of the original on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

JOS. S. WILSON,
Commissioner of the General Land Office.

**Affidavit of Ai Willard.* [1

Ai Willard being duly sworn, and says he is a native-born citizen of the United States and a resident of San Mateo county, State of California; over the age of twenty-one years.

Deponent says that in the year of 1857, he purchased a certain tract of land of William Scott, situated in said county aforesaid, supposed to be Government land at that time, but a few years afterwards the claimants of the Buriburi ranch claimed a portion of my place as their land, and about the same time the claimants of the Visitacion grant claimed the other portion. Deponent further says that the two named grant claimants, by the surveyor general of California, made surveys of their ranchos which does not correspond with the original grant as shown by the map attached to the original grant; the surveyor general in his surveys has adopted a survey in the Visitacion ranch aforesaid, a line on the west and south where deponent's land is situated, to wit: a stake marked B. B. No. 2, and *at that point the survey runs full [2
one mile and a half west of where the original line was established by the Mexican government, which line was run on top of the San Bruno Mountain, as shown by the map attached to the grant, and deponent further says that the Buriburi claimants has established the same bound for their northeast corner of their ranch, to wit, B. B. stake No. 2, which is outside of the grant as shown by the old map attached to grant; course named in said grant, the northerly line as shown by said grant runs from point San Bruno where an estuary looks to the south, thence west in a straight line as shown by old map to Lagunas Alta, where the only natural object is mentioned in said grant as shown by the old map as was one of the conditions of the grant and instructions of the Mexican government to their surveyor to survey the grant and give juridical possession. Deponent further says, he was admitted into the United States* district [3

court as an intervenor in the name of the United States, with Charles Clark and J. E. King and others, for the purpose of putting in proofs to set aside the aforesaid surveys, and have new ones made to correspond with said grant aforesaid as originally granted by the Mexican government.

Deponent has spent considerable money in the courts to get his rights. After the case had been in the courts four or five years, the case went against deponent in the United States district court, and an application for an appeal to the United States Supreme Court, the district attorney agreed to appeal the case to Washington, and informed deponent that the case should go up without any costs to deponent, wherefore deponent did not trouble himself about the matter until some four or five months, when he was informed by some one of his neighbors that the district attorney had not given notice of appeal, and afterwards he refused to allow the appeal to be taken
4] *to Supreme Court, wherefore I have had no redress in any of the courts of my country.

Also, deponent further says that a stipulation was entered into by the district attorney without his consent, or without notice to him or his counsel, with the grant claimants, stipulating that the aforesaid surveys should be final as surveyed by the surveyor general of California, to wit: That B. B. stake No. 2 should be the northeast corner of the Buri Buri ranch, and be one of the southern bounds of the Visitacion ranch. Deponent resid's on said land at the present time.

Witnesseth my hand and seal this 29th day of January, 1870.

AI WILLARD. [SEAL.]

Sworn to before me this 29th day of January, 1870.

[S. L.]

E. W. JONES,
Notary Public.

Statement of Tully R. Wise.

I have examined the vast amount of papers on file in the Visitation ranch case, and have prepared the following statement from them, at the request of Mr. Clarke:

Mr. Clarke's affidavit will explain much connected with this matter, and the accompanying documents and maps will, after reading and comparing them, suggest to any mind a great deal. I can only make a few suggestions, taken from the record. It is impossible to copy the whole mass of papers except at great expense.

The San Bruno Mountain runs entirely across the southern peninsula formed by the bay of San Francisco and the Pacific Ocean, from northwest to southeast. On the eastern side of the mountain, toward the bay, there are three small valleys, called Guadalupe, Visitation, and Rodeo Viejo. While the Mexican government owned the country Jacob P. Leese petitioned for a grant of these three valleys, by the name of "Cañada de Guadalupe, Visitation, y Rodeo Viejo." The name itself is very suggestive of what he wanted and of the country. "Cañada" is a small valley, almost a gulch. "Y" means and; and the full name is the Valleys of Guadalupe, Visitation, and Rodeo Viejo.

With his petition Leese presented a diseño or map, and gave the boundaries and description. In his petition he says it is "bounded on the east by the bay, on the west by the Camino Real and Portezuelo, on the north by the rancho of José Sanchez." The Camino Real is a public road or highway, or royal road; and Portezuelo means an opening or gate through which the road passed; that is, a gap. In the papers, again, the land is described as bounded by the Camino Real as far as the Portezuelo. And the tract of country is called a rincoñada, which means a pocket or inner angle, in contradistinction to a punta. The corner of a room would be called a rincoñada, while the outer angle would be called a punta. In Leese's deposition taken in the case, he says the Camino Real only bounded it to the Portezuelo. The Camino Real ran through the Portezuelo, and continued along the foot of the mountains to San José. It is evident that the Portezuelo was the point where the line of the map left the Camino Real. The map shows a tract of country not correctly delineated, but it would appear that the line ran along the top of the mountain, as far as it goes south. The courses are not correctly laid down. The Camino Real is not on the west, as the petition says, but on the northwest, nearly north. The rancho Buri Buri was not north, but nearly south. The Buri Buri, the rancho of José Sanchez, only touches it at the south, and does so, whether the line runs along the crest of the hill, as it ought to, or whether it runs beyond, (as it has been patented,) into the valley beyond the San Bruno Mountain.

From the name, from its being called a cañada and a rincoñada, from the map, from the three small valleys, from the description in the papers, from Leese's deposition, and from everything connected with the case, I was convinced that the survey ought to run along the top of the mountain. But the survey passes through the Portezuelo, over the San Bruno Mountain, and gives the claimant a breadth of land nearly three-fourths of a mile beyond the mountain, and giving him the whole mountain.

When the survey was made it was carried into the United States district court under the act of 1860. It was litigated there. Mr. Clarke and others employed J. B. Williams to aid the United States district attorney to oppose the location of the claim. Mr. Clarke was a preëmptioner, and had paid his money to the Government for the land afterward taken from him under this survey. After the decision of the court, a stipulation was signed, taking away the right of appeal to the Supreme Court. Mr. Williams did not sign that stipulation, although it purports to be signed by him. He was in the West at the time. Mr. Clarke was and is anxious to prosecute an appeal to the Supreme Court of the United States. He caused a motion to be made to vacate or set aside the order making the survey final under the stipulation, but was entirely unsuccessful. He tried to get an appeal and to vacate the stipulation, but here also he was not able to succeed. Mr. Clarke then opposed the issuing of a patent before the Land Office at Washington, and employed counsel for that purpose. But here, too, he failed, because the Commissioner regarded the decision of the court as final.

Here I deem it proper to make an explanation:

When Mr. Clarke was informed by his counsel that a patent would issue to the claimant, he applied to me to write to Washington and see if they would let him float a warrant which he had put on the land, and pay in money for the small fraction he had left. He thought all was lost and the patent had actually issued, and it was only a question of the value of the warrant. But at the Land Office, subsequently, they intimated to Mr. Thornton that Clarke had withdrawn his opposition from the fact of applying for leave to float his warrant. But he never meant to withdraw his opposition as long as he could oppose it.

Subsequently Mr. Thornton had an interview with Attorney General Speed, who said, if Clarke had been prevented from having an appeal he would see that something was done. That he has always been anxious for an appeal I know personally, as well as from the record. I thought, and still think, that the Supreme Court would have reversed the decision.

Colonel Leander Ransom, who was formerly chief clerk in the surveyor general's office, has made a traced copy of the diseño, which is herewith sent, and has traced with red pencil the line of the survey as actually made, as far as he could. The piece between the red line and the mountain includes Mr. Clarke's land, land that he settled upon, built upon, improved, bought, and paid for to the Government. I have marked it with black pencil. After the court made its decision the then United States district attorney, in my presence, promised Mr. Clarke that an appeal should be taken. Why it was not done I don't know. That it was not done is certain, and it was promised, and Mr. Clarke was anxious for it.

The facts I have stated or alluded to above. What the Government can do or will do I do not know. One thing I do know, that Clarke can do nothing under our laws. By our decisions only the Government can attack a patent. (See Leese *vs.* Clarke, 18 Cal., 535.) And this doctrine is at least hinted at in Field *vs.* Seabury, (19 How., U. S. S. C., 332.) It has also been decided in Missouri. See also the case of Jackson *vs.* Lawton, (10 Johns, 24.) It is positive beyond a doubt that our courts could not and would not go behind a patent under any circumstances.

Now, can the Government itself, by direct proceeding, set aside this patent? Perhaps it could. I am not prepared to say.

Very respectfully,

TULLY R. WISE.

P. S.—Mr. Clarke wants Mr. Thornton to request the lawyer he sent the papers to to return them if the Government will do nothing.

DEPARTMENT OF JUSTICE,
Washington, January 28, 1871.

SIR: According to the request in your letter of the 26th instant, I send you herewith copy of a letter from Attorney General Hoar to Mr. Latimer, the district attorney of California, which is undoubtedly the document to which you refer.

Very respectfully,

A. T. AKERMAN,
Attorney General.

Hon. S. L. MAYHAM,
Sub-Committee of Private Land Claims, House of Representatives.

WASHINGTON, D. C., *May* 3, 1870.

SIR: Referring to my letter to Mr. Pixley, your predecessor, of the 4th of January last, and to my letter to you of the 26th of February last, relating to the application in behalf of the legal representatives of N. S. Murphy, for leave to file a bill in equity in the

name of the United States to vacate a portion of a land patent of the rancho Cañada de Guadalupe la Visitacion y Rodeo Viejo, I have to say that this application has been considered by me, and evidence exhibited to me in behalf of the legal representatives of N. S. Murphy and in behalf of other persons alleged to be in the same predicament.

It appears that on the appeal by the United States from the final decision of the board of land commissioners to ascertain and settle private land claims in the State of California, Judge Hoffman, of the United States district court, on the 18th of June, 1856, affirmed the decision of said commissioners, and confirmed to the appellee, Henry R. Payson, the claim to the rancho, and that by an order filed in the said court, April 1, 1857, the said judge, after reciting that the Attorney General of the United States had given notice that appeal will not be prosecuted in this cause, and a stipulation having been entered into to that effect, ordered and decreed that "the claimant have leave to proceed under the decree of this court heretofore rendered, as under final decree;" that at a stated term of the said court held on the 16th day of March, 1864, said judge ordered and decreed "that the survey and location shown by the plat approved by said surveyor general March 11, 1864, and filed herein March 12, 1864, is a good and valid survey and location of the land confirmed to Henry R. Payson, as aforesaid, and that the said survey and location and the same is hereby approved and confirmed;" that on the 8th of July, 1864, a stipulation was filed in said court signed by certain persons waiving all right of appeal from said last-named order and decree, whereupon, on the 9th of July, 1864, said district judge ordered and decreed "that the decree of approval made in this court as aforesaid, and to which is attached the plat of said approved survey, be and the same is declared final, and the said survey and location of said land finally determined and approved."

These last proceedings were had under the act of June 14, 1860, (12 Stat., p. 33,) by the fifth section of which act no appeal shall be allowed from the order or decree as aforesaid of the said district court approving of the survey and location, unless applied for within six months from the date of the decree of the said district court, but not afterward; and the said plat and survey, so finally determined by publication, order, or decree, as the case may be, shall have the same effect and validity in law as if a patent for the land so surveyed had been issued by the United States; and the same section also provides that "it shall be the duty of the surveyor general to transmit, without delay, the plat or survey of the said claim to the General Land Office, and the patent for the land as surveyed shall forthwith be issued therefor." The land patent, conformably to the survey and location, approved by the district court, was issued in December, 1865.

It is plain, then, that the application is for leave to use the name of the United States, not only to cancel a land patent, but also to vacate a decree of the district court settling the location and boundaries of the claim. I do not find, on the evidence submitted to me, such facts as to convince me that the court will permit a bill of review to be now filed for the purpose of reversing the decree settling the boundaries and location, or probable grounds that the court would reverse its decree if all the facts were established which persons appearing before me have exhibited any evidence tending to prove, and I do not think that the name of the United States should be used for the purpose of unsettling or throwing clouds upon land titles, except where evidence of such facts is exhibited as show that the court might, under some view of the evidence, entertain proceedings for annulling a patent or vacating a judgment establishing an interest in land. You are, therefore, instructed to take no further action in the name of the United States under this application made in behalf of the legal representatives of N. S. Murphy.

Very respectfully,

E. R. HOAR,
Attorney General.

L. D. LATIMER, Esq., *San Francisco, California.*

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 30.

ELIAS C. BOUDINOT.

FEBRUARY 10, 1871.—Ordered to be printed and recommitted to the Committee on the Judiciary.

Mr. COOK, from the Committee on the Judiciary, made the following

REPORT.

The Committee on the Judiciary, to whom was referred the memorial of Elias C. Boudinot, together with a resolution that the committee be instructed to inquire into the statements of fact contained therein, and provide for the proper enforcement of the stipulations of the treaty with the Cherokee Nation, and for the protection of the individual rights therein involved, and that they be authorized to report at any time by bill or otherwise, respectfully report:

That the tenth article of the treaty made with the Cherokee Nation of Indians, on the 19th day of July, 1866, provides as follows:

Every Cherokee, and freed person resident in the Cherokee Nation, shall have the right to sell any products of his farm, including his or her live stock, or any merchandise, or manufactured products, and to ship and drive the same to market, without restraint, paying any tax thereon which is now, or may be, levied by the United States on the quantity sold outside the Indian Territory.

The one hundred and seventh section of the act of July 20th, 1868, is as follows:

And be it further enacted, That the internal revenue laws imposing taxes on distilled spirits, fermented liquors, tobacco, snuff, and cigars shall be held and construed to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same shall be within a collection district or not.

Prior to the passage of this act, Mr. Boudinot, who claimed to be a Cherokee Indian and a resident of the Indian Territory, applied to the Commissioner of Internal Revenue, by letter, for information concerning his rights as a manufacturer of tobacco, and received the following reply:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, July 14, 1868.

SIR: In your letter of May 8 you state that you have a factory for the manufacture of tobacco in the Cherokee Nation, in the Indian Territory, and you ask my opinion as to whether you have a legal right to sell tobacco manufactured at such factory without the payment of the revenue tax thereon, at any place you may choose to sell it, whether in the Cherokee Nation or elsewhere in the United States. I reply, in my opinion, under *existing* laws no tax can be legally assessed and collected upon tobacco manufactured at such factory, whether it be sold in the Cherokee country or elsewhere in any of the United States. I do not, however, feel called upon to express any opinion as to the effect which the bill now before Congress may have upon this question should it become a law.

JOHN E. RISLEY,
Deputy Commissioner.

After the passage of the act of July 20, 1868, Mr. Boudinot requested

the opinion of the Commissioner as to the effect of the law, and received the following reply:

OCTOBER 21, 1869.

GENTLEMEN: This office does not propose to apply within the territories of the Cherokee Nation the revenue laws relating to tobacco and spirits produced there, but holds that section 107 of the act of 20th July, 1868, applies to the articles themselves, and will be enforced when those articles are carried into the States or Territories of the United States for sale. The grounds for this determination and the instructions given to the revenue officers are more fully explained by the accompanying memorandum of opinion by Judge James, to whom the question was originally referred.

Very respectfully,

C. DELANO, *Commissioner.*

The opinion of Judge James, referred to in the letter of Commissioner Delano, is in these words:

In the matter of taxes on tobacco produced in the territory of the Cherokee Nation.

SIR: I have examined the argument of Colonel Elias C. Boudinot, a citizen of the Cherokee Nation, against the collection within its territory of taxes upon tobacco manufactured there, and have the honor to make the following reply:

The question, whether section 107 of the act of 20th July, 1868, intended that the revenue laws relating to tobacco and spirits produced in "the Indian country" should be extended *into* that country and there enforced, was submitted to me by yourself about the 12th day of August last. I had the honor to advise you that, without any reference to existing treaties, it was apparent on the face of the statute itself that Congress did not intend to apply the revenue laws to the Indian country itself, but to *the articles* produced there, and that the application could be made only to such part of these manufactures as might be carried thence into the States or Territories of the United States. The action of your office was afterward taken in accordance with this advice, and instructions to that effect were sent, as I was informed, to the revenue officers of Kansas, Missouri, and Texas.

Very respectfully,

CHARLES P. JAMES,
Counselor-at-law.

HON. COLUMBUS DELANO,
Commissioner of Internal Revenue.

The Commissioner, at the time that this reply was made, entertained doubts whether the courts of the United States had jurisdiction to enforce the revenue laws within the Indian country, and for that reason it was held that the intention of the provision was that the taxes should be applied outside of the Indian country to the articles produced there, and in pursuance of this opinion instructions were given to the officers of the adjoining States to take care that all tobacco brought from the Indian country into their respective districts should be subjected to the tax.

Subsequently, and without previous orders from the Commissioner of Internal Revenue, several tobacco factories, with their stocks of tobacco, in the Indian country, were seized by the revenue officers of the adjoining district of Arkansas. The report of these seizures did set forth that a number of factories had been established near the State lines of Kansas and Arkansas; that the tobacco manufactured by them was almost wholly, if not wholly, purchased in Missouri and other States, and carried into the Indian country for manufacture; that an extensive illicit trade was carried on either by the manufacturers or by persons who purchased from them, by which the tobacco so manufactured was smuggled into Texas, Arkansas, Missouri, and Kansas; that for the purpose of claiming the protection of the treaty of July 19, 1869, white men nominally associated with them, as owners of the factories, members of the Cherokee Nation, but that the actual transactions were carried on by persons who did not claim to come within the terms of the treaty. The

local officers reported the whole system of tobacco manufacture in the Indian country as a fraud, as well upon the treaty as upon the revenue laws.

Under these circumstances the question was reëxamined by the Commissioner of Internal Revenue. The Indian country had originally been attached to the Territory of Arkansas, and afterward to the State of Kansas, for the limited purpose of giving the United States courts jurisdiction to punish certain crimes, and for no other purpose; but when the State of Arkansas was divided into two judicial districts, the Indian country was described as part of the western district, in the same terms as were the counties specified as part of the district. The western district of Arkansas was declared to consist of certain counties and of the Indian country. The revenue laws provided that the several district courts of the United States should have jurisdiction to enforce the revenue laws within their respective districts, and it was determined by the Commissioner, upon this reëxamination of the question, that under the literal terms of the acts referred to and of the revenue acts, the district court of the United States for the western district of Arkansas had special jurisdiction in two classes of cases—first, those arising under the acts regulating intercourse with these Indians; secondly, revenue cases—and that the one hundred and seventh section of the act of 20th of July, 1868, applied to all the tobacco produced in the Indian country, and made no distinction between that part of the product which was sold and kept within that country and that part which was carried outside; that the words of said section, "That the revenue laws imposing taxes on distilled spirits and tobacco shall be held and construed to extend to such articles produced anywhere within the exterior bounds of the United States," necessarily meant all such articles produced anywhere within the exterior boundaries of the United States, and consequently, after such reëxamination of the question, and decision thereon, the Commissioner declined to order the release of the factories and tobacco which had been seized, and the cases were left to the action of the courts. In the case of Mr. Boudinot, the question was raised whether he was entitled to claim any benefit secured by the treaty to the members of the Cherokee Nation, his claim of being a Cherokee being denied. It is conceded that, while Mr. Boudinot is of mixed white and Cherokee blood, he acted as secretary of the senate of the so-called Confederate States government of Arkansas during the war of the rebellion; and it is claimed that he has elected to be considered a citizen of the State of Arkansas, and exercised the rights of citizenship in that State.

The questions of law arising in the case are, first, what are the relative rights of the Cherokee Nation and the United States under the treaty, whether the treaty did protect the manufacturers of the products of the States carried on in the Indian country; secondly, whether the treaty is superior to and irrepealable by any law of Congress, in so far as such law relates to the collection of revenues; and, thirdly, what is the proper construction of the one hundred and seventh section of the act of July 20th, 1868, so far as the same applies to the Indian country.

The district court of the United States has already decided these questions adversely to Mr. Boudinot, and the case has been appealed to the Supreme Court of the United States, where it is now pending, and where the very important questions involved will be finally and authoritatively settled. The committee are of opinion that no action of Congress is advisable at the present time. It is impossible for the committee to say that the reports of the local officers to the Commissioner that

the tobacco factories in the Indian country were all established close to the lines of adjoining States, and that ample proofs existed that they were the means of an illicit trade which had destroyed the trade of tax-paying manufacturers of the neighboring States, are not entitled to credit; and if credit is to be given them by the Commissioner, it was clearly his duty to procure from the courts a decision of the question whether the laws of Congress do not forbid these injurious results.

The questions of law involved here have been submitted to the proper tribunal, and the committee are of opinion that an appeal to Congress, upon the purely judicial questions arising in this case, ought not now to be considered.

The committee ask to be discharged from the further consideration of the subject, and that the memorial do lie upon the table.

VIEWS OF THE MINORITY.

Mr. Kerr, on behalf of the minority of the Committee on the Judiciary, presented its views on the subject of the memorial in the following report:

Mr. SPEAKER: The undersigned, being unable to concur with the majority of the Judiciary Committee in the disposition they propose to make of the memorial of Colonel Elias C. Boudinot, respectfully submit their reasons for such non-concurrence in the following statement of facts and law in the premises:

We first embody the memorial itself, in order that the subject may be more fully comprehended by the House:

Whereas the tenth article of the treaty of July 19, 1866, between the United States and the Cherokee Nation of Indians stipulates in these words: "Every Cherokee and free person resident in the Cherokee Nation shall have the right to sell any products of his farm, including his or her live stock, or any merchandise or manufactured products, and to ship and drive the same to market without restraint, paying a tax thereon, which is now or may be levied by the United States, on the quantity sold outside of the Indian Territory;" and whereas Elias C. Boudinot, a "Cherokee, resident in the Cherokee Nation," confiding in the faith of the Government, did, subsequent to the date of said treaty, manufacture and sell tobacco in the Cherokee Nation "without restraint;" and whereas it is not charged by any party that the said Boudinot ever sold any "manufactured products" "outside of the Indian Territory" without paying the tax thereon levied by the United States; and whereas on the 20th of July, 1868, an act imposing taxes on distilled spirits and tobacco, and for other purposes, was passed, the one hundred and seventh section of which reads as follows:

"*And be it further enacted*, That the internal revenue laws, imposing taxes on distilled spirits, fermented liquors, tobacco, snuff, and cigars, shall be held and construed to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same shall be within a collection district or not."

And whereas the said Boudinot, after the passage of said act of July 20, 1868, referred the question of his right to manufacture and sell his manufactured products within the Indian Territory without paying tax thereon to the United States to Mr. Rollins, at that time Commissioner of Internal Revenue; and whereas, on the 23d day of February, 1869, in response to such reference, Mr. Rollins decided that "notwithstanding the language of said section, the tax could not be collected upon tobacco manufactured in the Indian country so long as it remained in said country, but upon its being brought within any collection district of the United States it would be liable to seizure and forfeiture unless it should be properly stamped, thus indicating that the tax imposed by law had been paid;" and whereas, after Hon. Columbus Delano succeeded Mr. Rollins as Commissioner of Internal Revenue, the said Boudinot submitted the same questions to Mr. Delano, citing the one hundred and seventh section of the act of July 20, 1868, and the tenth article of the Cherokee treaty of 1866; and whereas Commissioner Delano referred the questions submitted to his legal adviser, to which the following opinion was given:

"*In the matter of taxes on tobacco produced in the territory of the Cherokee Nation.*

"SIR: I have examined the argument of Colonel Elias C. Boudinot, a citizen of the Cherokee Nation, against the collection within its territory of taxes upon tobacco manufactured there, and have the honor to make the following reply:

"The question whether section 107 of the act of 20th July, 1868, intended that the revenue laws relating to tobacco and spirits produced 'in the Indian country' should be extended into that country and there enforced, was submitted to me by yourself about the 12th day of August last. I had the honor to advise you that, without any reference to existing treaties, it was apparent on the face of the statute itself that Congress did not intend to apply the revenue laws to the Indian country itself, but to the articles produced there; and that the application could be made only to such part of

these manufactures as might be carried thence into the States or Territories of the United States. The action of your office was afterward taken in accordance with this advice, and instructions to that effect were sent, as I was informed, to the revenue officers of Kansas, Missouri, and Texas.

"Very respectfully,

"CHARLES P. JAMES,
"*Counselor-at-law.*

"Hon. COLUMBUS DELANO,
"*Commissioner of Internal Revenue.*"

And whereas Commissioner Delano wrote the following letter:

"TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
"*Washington, October* 21, 1869.

"GENTLEMEN: This office does not propose to apply within the territories of the Cherokee Nation the revenue law relating to tobacco and spirits produced there, but holds that section 107 of the act of 20th July, 1868, applies to the articles themselves, and will be enforced when those articles are carried into the States or Territories of the United States for sale. The grounds for this determination and the instructions given to the revenue officers are more fully explained by the accompanying memorandum of opinion by Judge James, to whom the question was originally referred.

"Very respectfully,

"C. DELANO, *Commissioner.*

"Messrs. PIKE & JOHNSON,
"*Counselors-at-law.*"

All of which opinion of Judge James and letter of Commissioner Delano were authorized to be sent, and were sent, to the said Boudinot as the final settlement of the question; and whereas but a few days after the date of the Commissioner's decision he authorized and instructed the supervisor of internal revenue for the district of Arkansas to seize the tobacco factory of the said Boudinot in the Cherokee Nation; and whereas, in pursuance to such instructions, the property of the said Boudinot in the Indian country was seized, and he arrested as a felon without notice of any change in the opinion of the Commissioner, and for no other offense than pursuing a legitimate business specially authorized by treaty and the repeated decisions of the revenue department; and whereas the said Boudinot has applied to have the merits of his case referred to the Attorney General for his decision, and the Secretary of the Treasury has refused to submit the questions involved to the Attorney General; and whereas the said Boudinot has not given bail, but is still at large, courting arrest in vain, that he may obtain a decision from the courts: Therefore,

Be it resolved by the House of Representatives of the United States of America, That the Committee on the Judiciary be, and is hereby, instructed to inquire into the foregoing statements of fact, and provide for the proper enforcement of the stipulations of the treaty with the Cherokee Nation, and for the protection of the individual rights herein involved, and that they be authorized to report at any time by bill or otherwise.

On the 19th day of July, 1866, a treaty with the Cherokee Nation of Indians was made and ratified by the United States, in the tenth article of which it was stipulated in these words:

Every Cherokee, and freed person resident in the Cherokee Nation, shall have the right to sell any products of his farm, including his or her live stock, or any merchandise or manufactured products, and to ship and drive the same to market without restraint, paying any tax thereon which is now, or may be, levied by the United States on the quantity sold outside of the Indian Territory.

Mr. Boudinot being a "resident of the Cherokee Nation," established a factory for the manufacture of tobacco in the Cherokee Nation, and claimed and exercised the right to ship his manufactured products to market "without restraint;" and it is not charged or pretended that he ever sold, or attempted to sell, any part of such manufactured products "outside of the Indian Territory," without paying the tax thereon levied by the United States. We find that previous to July 14, 1868, Mr. Boudinot addressed a letter to Commissioner Rollins, respecting his rights as a manufacturer of tobacco in the Cherokee Nation, to which letter he received the following reply:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, July 14, 1868.

SIR: In your letter of May 8, you state that you have a factory for the manufacture of tobacco in the Cherokee Nation in the Indian Territory, and you ask my opinion as to whether you have a legal right to sell tobacco manufactured at such factory without the payment of the revenue tax thereon, at any place you may choose to sell it, whether in the Cherokee Nation or elsewhere in any of the United States.

I reply, that in my opinion, under *existing* laws, no tax can be legally assessed and collected upon tobacco manufactured at such factory, whether it be sold in the Cherokee country or elsewhere in any of the United States. I do not, however, feel called upon to express any opinion as to the effect which the bill now before Congress may have upon this question should it become a law.

Very respectfully,

JOHN E. RISLEY,
Deputy Commissioner.

E. C. BOUDINOT, Esq.,
Washington, D. C.

The bill "before Congress," referred to by Deputy Commissioner Risley, became a law on the 20th of July, 1868, six days after the date of the foregoing letter, the one hundred and seventh section of which reads as follows:

And be it further enacted, That the internal revenue laws imposing taxes on distilled spirits, fermented liquors, tobacco, snuff, and cigars shall be held and construed to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same shall be within a collection district or not.

After the act of July 20, 1868, became a law, Mr. Boudinot again referred the question of his liabilities and rights in the premises to Commissioner Rollins; and on the 23d of February, 1869, was officially informed that "notwithstanding the language of said section, the tax could not be collected upon tobacco manufactured in the Indian country so long as it remained in said country; but upon its being brought within any collection district of the United States it would be liable to seizure and forfeiture, unless it should be properly stamped, thus indicating that the tax imposed by law had been paid."

After the succession of Mr. Delano to the office of Commissioner of Internal Revenue, Mr. Boudinot presented to him a frank statement of his business as a manufacturer of tobacco in the Cherokee Nation, and requested an official opinion, as he had previously done of Mr. Rollins, respecting his rights and liabilities. In reply to such statement and request, Commissioner Delano, on the 21st day of October, 1869, wrote the following letter:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, October 21, 1869.

GENTLEMEN: This office does not propose to apply, *within* the territories of the Cherokee Nation, the revenue laws relating to tobacco and spirits produced there, but holds that section 107 of the act of 20th July, 1868, applies to the articles themselves, and will be enforced when those articles are carried into the States or Territories of the United States for sale. The grounds of this determination, and the instructions given to the revenue officers, are more fully explained by the accompanying memorandum of opinion by Judge James, to whom the question was originally referred.

Very respectfully,

C. DELANO, *Commissioner.*

Messrs. PIKE & JOHNSON,
Counselors-at-Law.

The opinion of Judge James, referred to in the letter of Commissioner Delano, is in these words:

In the matter of taxes on tobacco produced in the territory of the Cherokee Nation.

SIR: I have examined the argument of Colonel Elias C. Boudinot, a citizen of the Cherokee Nation, against the collection within its territory of taxes upon tobacco manufactured there, and have the honor to make the following reply:

The question, whether section 107 of the act of 20th July, 1868, intended that the

revenue laws relating to tobacco and spirits produced in "the Indian country" should be extended into that country and there enforced, was submitted to me by yourself about the 12th day of August last. I had the honor to advise you that, without any reference to existing treaties, it was apparent on the face of the statute itself that Congress did not intend to apply the revenue laws to the Indian country itself, but to *the articles* produced there, and that the application could be made only to such part of these manufactures as might be carried thence into the States or Territories of the United States. The action of your office was afterward taken in accordance with this advice, and instructions to that effect were sent, as I was informed, to the revenue officers of Kansas, Missouri, and Texas.

Very respectfully,

CHARLES P. JAMES,
Counselor-at-law.

Hon. COLUMBUS DELANO,
Commissioner of Internal Revenue.

It appears, then, from the record, that Mr. Boudinot not only was anxious to obtain, but actually *did* obtain, the official sanction of Commissioners Rollins and Delano, with respect to his manufacturing business. And there is no allegation whatever that Mr. Boudinot has not scrupulously complied with the instructions and interpretations of the Commissioners of Internal Revenue in the actual management of his business in the Territory. The seizure of Mr. Boudinot's factory occurred on the 20th of December, 1869. It was more than a month afterward before Commissioner Delano officially or otherwise incorporated the Indian country into any collection district.

It was afterward stated by the Commissioner that he had reversed his former decision, before quoted, and the decisions of his predecessor, and holds, at present, that the one hundred and seventh section of the act of July 20, 1868, intended the extension of the revenue laws over the *Cherokee territory*, and not alone over the "*articles produced*" there; but it is admitted that no notice was given to Mr. Boudinot of any change in the opinion of the Commissioner, and that his property was seized, and his person arrested, as though he had willfully violated the law; and it is also admitted by Judge James, who represented Mr. Delano before your committee, that the reversal of the repeated decisions of the Commissioners of Internal Revenue was never officially promulgated until after the seizure of Colonel Boudinot's property, and after his personal arrest. The order was issued under date of January 25, 1870. It reads as follows:

TREASURY DEPARTMENT, OFFICE INTERNAL REVENUE,
Washington, January 25, 1870.

Whereas it is provided by section 107 of "an act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868, "that the internal revenue laws imposing taxes on distilled spirits, fermented liquors, tobacco, snuff, and cigars shall be held and construed to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same shall be within a collection district or not;" and whereas it is further provided by section 103 of the same act, "that when any tax is imposed, and the mode or time of assessment or collection is not provided for, the same shall be established by regulation of the Commissioner of Internal Revenue; and the Commissioner is authorized to make all such regulations, not otherwise provided for, as may become necessary by reason of any change of law in relation to internal revenue made by this act;" and whereas neither the mode nor time of assessment or collection of the taxes imposed and extended by the provisions of said section 107 to distilled spirits, fermented liquors, tobacco, snuff, and cigars, produced within the country lying west of the States of Arkansas and Missouri, and known as the Indian Territory or country, has been provided for, except as in said section 103:

Now, therefore, by virtue of the power and authority given to me, as Commissioner of Internal Revenue, by said action 103, Thomas J. Hunt is hereby appointed, with full authority to exercise all the powers vested by the internal revenue laws in assessors, and Robert W. Wishard is hereby appointed, with full authority to exercise all the powers vested by said laws in collectors, respectively, within so much of the said

country known as the Indian Territory or country as constitutes a part of the western judicial district of Arkansas, for the purpose of the assessment and collection, respectively, of the taxes imposed and extended by said section 107, as above recited. And they are hereby directed and instructed to pursue, respectively, in the assessment and collection of said taxes the same mode and practice which are prescribed by law and regulations in like cases arising in collection districts, and to make the same reports and return the same accounts which are required in such like cases by law and regulations.

C. DELANO,
Commissioner of Internal Revenue.

It follows, therefore, that the opinions of Mr. Rollins and Mr. Delano, heretofore set forth, were the only recorded evidence of the views of those officials with reference to the right of Mr. Boudinot to manufacture tobacco and sell the same in the Indian country without paying tax to the United States. It further appears that Mr. Boudinot appealed from the last verbal decision of Commissioner Delano, and petitioned the Secretary of the Treasury to submit the legal questions involved to the Attorney General. The letter of Mr. Boudinot to the Secretary of the Treasury is herewith submitted:

WASHINGTON, D. C., *January* 26, 1870.

SIR: As a citizen of the Cherokee Nation, born a Cherokee, and resident in the Cherokee country, and as personally and gravely interested in the question, I appeal to you from the decision and action of the Commissioner of Internal Revenue, in respect to the collection within the Cherokee country of the tax upon tobacco manufactured there by me, and respectfully request your consideration of and judgment upon these questions:

1. Whether, under the tenth article of the treaty of 19th July, 1866, a Cherokee Indian, manufacturing tobacco within the Cherokee country, can, under the pretense that section 107 of the act of 1868, imposing taxes on distilled spirits, tobacco, &c., applies to the Indian country, be compelled to pay any tax to the United States on other or more of the tobacco manufactured by him than he may sell beyond the limits of the Indian Territory.

2. Whether, as to such tobacco, so manufactured in the Cherokee country by him, a Cherokee Indian is punishable for not observing the provisions of the revenue laws, when he takes none at all outside of the Indian Territory, or when he pays the taxes required on all that he does carry beyond those limits.

3. Whether a Cherokee Indian, residing in the Cherokee country, is liable to pay the tax on tobacco manufactured by him, which was grown in a State and purchased by him, when manufactured and sold by him in the Cherokee Nation and not elsewhere, and for use and consumption in the Indian country.

A more full statement of the case and its circumstances in which these questions arise, and referring to some charges which may seem to you to deserve to be inquired into, accompanies this letter. I most respectfully invite your attention to it, and have the honor to request that the foregoing questions, being of the utmost gravity and importance, may be submitted to the Attorney General for his decision, with the arguments herewith presented.

With the utmost respect, your obedient servant,

ELIAS C. BOUDINOT.

Hon. GEORGE S. BOUTWELL.

The answer of the Secretary was as follows:

TREASURY DEPARTMENT, *January* 28, 1870.

SIR: I have the honor to acknowledge the receipt of your letter of the 28th instant, covering an appeal by Elias C. Boudinot, from the decision and action of the Commissioner of Internal Revenue, in respect to the collection within the Cherokee country of taxes upon tobacco manufactured by him. In reply I have to say that the action taken by Mr. Delano in the matter was after consultation with me, and that I fully concur in the opinion which he has given.

Very respectfully,

GEO. S. BOUTWELL,
Secretary.

Hon. ALEX'R MCDONALD,
U. S. Senate.

Thus failing in his attempt to get his case referred to the Attorney General, Mr. Boudinot announced that he was an escaped prisoner, and with the certified copy of the proceedings before the United States commissioner of the western district of Arkansas in his hands, showing that he had not given the required bail, but was committed to the custody of the marshal, he sought to be arrested in this city, that he might test the legal merits of his case by *habeas corpus*. Yet, though the officer of internal revenue who had first procured his arrest, and knew the facts, was in Washington, he refused to have the arrest made.

Disappointed in getting his case before the Attorney General or before the courts, Mr. Boudinot represented to Mr. Delano that he had a large amount of unmanufactured material on hand, which was in imminent danger of being wasted and ruined, and made the following proposition in writing:

WASHINGTON, D. C., *January* 26, 1870.

SIR: The undersigned, a Cherokee Indian, is the proprietor of a tobacco factory in the Cherokee Nation, recently seized by order of the supervisor for the district of Arkansas.

Being desirous of resuming his business, the undersigned proposes the following compromise:

1. He will conform strictly hereafter, until relieved therefrom by competent authority, with all the regulations respecting collection of tax on tobacco in the United States.

2. He will pay the Government the revenue tax on all tobacco he has hitherto sold unstamped, whenever the courts shall determine that such tax is due.

ELIAS C. BOUDINOT.

Hon. COMMISSIONER OF INTERNAL REVENUE.

This proposition to waive for the present what Mr. Boudinot conceived to be his rights under the treaty, the law, and the repeated decisions of the Revenue Bureau, was refused, as will appear from the following:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, February 9, 1870.

SIR: I have considered the proposition of E. C. Boudinot, presented through you, to compromise his liabilities to the United States for having manufactured and sold tobacco in violation of all the requirements of the act of July 20, 1868, relating thereto, and decline to accept it.

I shall be obliged to you if you will inform Mr. Boudinot of this result of his proposition, or give me his address that I may so advise him.

Very respectfully,

C. DELANO, *Commissioner.*

Hon. A. MCDONALD,
United States Senator.

As a last resort Mr. Boudinot appeals to Congress for redress; the record shows that he has been frank and open-handed in all his deportment in relation to this matter; but, while his conduct in the premises has been such as to command respect and sympathy, the whole question is one of law, and must be judged as such, without reference to extraneous matters. What is the law?

The tenth article of the Cherokee treaty of 1866 certainly gives Mr. Boudinot a right, as a Cherokee "resident in the Cherokee Nation," to ship his manufactured products anywhere in the Indian Territory "without restraint," and requires him to pay tax thereon only on such portions thereof as he may carry beyond the limits of the Indian Territory.

We do not feel called upon to give an opinion as to whether an act of Congress passed subsequent to a treaty, and in conflict with it, will abrogate the treaty; for we do not consider that such question enters into the present case at all.

It is now contended by Commissioner Delano that the one hundred

and seventh section of the act of July 20, 1868, gives the United States revenue jurisdiction over the *territory* of the Cherokees and Indian country; but there seems to be nothing in the act that warrants this construction. The decisions of Mr. Rollins and Mr. Delano, set out in this report, appear to rest upon clear legal ground, and to give the true construction; and it is evident from the terms of the one hundred and seventh section that Congress did not intend to assert revenue jurisdiction over the *territory*, but only over the articles that might be produced and manufactured there, and that tax upon the same could only be imposed and collected *when* such articles were taken *beyond* the limits of the Indian Territory for sale.

In all cases of ambiguity of language in Indian treaties it has been the custom of the Government and the decisions of the courts to give such construction thereto as would be most favorable to the Indians. The same rule should, for much stronger reason, apply to the interpretation of acts of Congress, where such acts tend in any respect to work a hardship upon the Indians, or to change the established policy of the Government toward them.

Chief Justice Marshall, in 6 Peters, 582, uses this language: "The language used in treaties with the Indians shall never be construed to their prejudice, if words be made use of which are susceptible of a more extended meaning than their plain import as connected with the tenor of their treaty." (See also the case of the Kansas Indians, 5 Wallace R., 737.)

In 1831, in The Cherokee Nation *vs.* The State of Georgia, (5 Peters, 1,) Chief Justice Marshall says:

> Is the Cherokee Nation a *foreign state* in the sense in which that term is used in the Constitution? The counsel for the plaintiff have maintained the affirmative of this proposition with great earnestness and ability. *So much of the argument as was intended to prove the character of the Cherokees as a state, as a distinct political society, separated from others, capable of managing its own affairs and governing itself, has, in the opinion of a majority of the judges, been completely successful.* They have been uniformly treated as a state from the settlement of our country. The numerous treaties made with them by the United States recognize them as a people capable of maintaining the relations of peace and war, of being responsible in their political character for any violation of their engagements, or for any aggression committed on the citizens of the United States, *by any individual of their community.* Laws have been enacted in the spirit of these treaties. *The acts of the Government plainly recognize the Cherokee Nation as a state, and the courts are bound by those acts.*

In addition to these judicial decisions it seems eminently just, upon principle, and to be required by the uniform policy of the Government, that the treaty stipulations with Indian tribes should be so construed as to give liberal effect to their intent and objects in favor of the Indians, and that no law of Congress should be permitted to reverse this policy, even when it is competent by law to do so, unless its terms be so clear and explicit as to admit of no other or more favorable construction.

The terms of the tenth article of the treaty in this case are very clear and free from ambiguity. They do not appear to forbid an Indian to purchase out of the Territory, in good faith, materials to be changed or manufactured by him in the Territory and there sold. Of course, it would not protect persons who, in any business they might conduct in the Territory, should attempt to do so in bad faith, or to evade revenue or other laws; but no such questions arise in this matter. Colonel Boudinot, although he admits he purchased some of his leaf tobacco out of the Territory, is not charged with having done so for any improper purpose. To construe the treaty to forbid any such purchase would unjustly limit the range of industry and production by the Indians in the Territory.

It is not necessary in this case to consider the power of Congress by law to repeal or annul a treaty with an Indian tribe. It will be conceded that such a power ought only to be exercised, if it exists, in the clearest cases of right and necessity. It is only demanded here that the law of Congress of July 20, 1868, be construed. There is nothing in its terms to disclose any clear intent on the part of Congress to annul the treaty. They can well stand together. They are not inconsistent. The original constructions put upon the law by the Commissioners, as stated, fully and fairly reconcile them. Those constructions do not invite or lead to frauds upon the revenue. If any frauds should be attempted, they can be readily detected and defeated. Besides, the laws extended over the whole Territory by the Commissioner are highly penal in their character, and cannot fail to lead to much embarrassment to legitimate business and enterprise, and much discontent.

It is true the Commissioner of Internal Revenue has caused legal proceedings to be instituted against Mr. Boudinot, and that the subject-matter of this controversy is in that way in process of adjudication by the courts. But, in our judgment, it is the duty of Congress, under the circumstances, to settle the legal construction of the treaty in question in favor of the memorialist, by enacting a law declaratory of the meaning of section 107 of the act of July 20, 1868. The history of this case, the extraordinary care and solicitude manifested by Mr. Boudinot to act within the law, his repeated efforts to have it construed officially and authoritatively, the several constructions of the law with which he was furnished by the proper officers, his absolute freedom from criminal intent in what he has done, and the true spirit and intent of the treaty, fully justify, if they do not require, as matter of simple justice, the enactment at once of such a law. We, therefore, recommend, as a substitute for the proposition of the majority, that the following joint resolution be passed by the House:

JOINT RESOLUTION declaratory of the true intent and meaning of section one hundred and seven of the act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twenty, eighteen hundred and sixty-eight.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That neither section one hundred and seven nor any other part of the act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twenty, eighteen hundred and sixty-eight, shall be so construed as to repeal, annul, or abrogate article ten of the treaty of July nineteen, eighteen hundred and sixty-six, between the United States and the Cherokee Indians, or so as to require the members of said Indian tribe to pay any revenue taxes on live stock, merchandise, or other products in good faith raised, produced, or manufactured in said Territory, unless the same shall be removed from, and sold outside of, the said Indian Territory, and in that case taxes shall be required to be paid only on the quantity sold outside of the said Indian Territory.

Independently of the many meritorious considerations arising out of the personal conduct of Colonel Boudinot, and entitling him to just and kind, if not generous, treatment at the hands of Congress, we believe that the enactment of the joint resolution we offer is necessary, in order to maintain the good faith and honor of the Government toward the Cherokee Nation.

Respectfuliy submitted.

M. C. KERR.
C. A. ELDRIDGE.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 31.

JOHN BLACK.

FEBRUARY 11, 1871.—Ordered to be printed.

Mr. JUDD, from the Committee on Foreign Affairs, made the following

REPORT.

[To accompany bill H. R. No. 1071.]

The Committee on Foreign Affairs, to whom was referred the memorial of John Black, late consul of the United States at the city of Mexico, together with an act entitled "An act for the relief of John Black, late consul of the United States at the city of Mexico," beg leave to report:

That on the 15th day of February, 1858, by order of this Government, Mr. Forsyth, then minister of the United States at the republic of Mexico, closed his diplomatic relations with that Government, and delivered to Mr. Black the records, seal, archives, and papers of the legation, in accordance with the following instructions from the Government of the United States: "The archives of the legation you will deposit with the consul of the United States at Mexico, Mr. Black, and you will instruct him to afford such counsel and protection to the citizens of the United States as may be in his power."

Mr. Black had been consul of the United States, resident at the city of Mexico, from 1839 until that date. He was an able and efficient officer, understanding the Spanish language, and had discharged his duties as consul to the entire satisfaction of the Government. He had, moreover, previously been charged with diplomatic duties when the United States minister was absent in 1845, and had been paid, by act of Congress, additional compensation therefor. When Mr. Forsyth surrendered the records of the legation to Mr. Black, and he assumed the protection of our citizens, Zuloaga, who was in power and called himself president, was imprisoning citizens of the United States, confiscating their property, making forced loans, and, in general, treating them in a manner contrary to the treaty stipulations between the governments, and in violation of the laws of nations. Mr. Black entered upon the duties as chargé d'affaires, extending his protection to citizens of the United States, corresponding with the Mexican government, reporting to the State Department, and performing diplomatic services as completely and faithfully as any diplomatic representative could have performed the same. The government of Mexico conceded to Mr. Black diplomatic privileges in relation to his correspondence, and he performed the duties thus devolved by the Government upon him, from the 15th of September, 1858, to the 15th of April, 1859—a period of seven months.

Your committee have examined the archives of the State Department, and find that Mr. Black's correspondence with the State Department and the exhibits accompanying the same, during that period, cover more than one hundred and fifty pages, or one-half of one bound volume of Diplomatic Correspondence. The honest and energetic manner in

which Mr. Black discharged the duties thus devolved upon him met with the complete approbation of the Government of the United States, as well as the approbation of the large number of American citizens engaged within the Mexican Republic, whose interests he protected and cared for.

The committee do not deem it necessary to enter into all the details of the services performed by Mr. Black; but from the examination of the dispatches and correspondence between him and the government of Mexico and our Government, it is evident that he performed valuable service of a diplomatic character in the protection of our citizens in their persons and property, and is as much entitled to compensation as though he had been technically a diplomatic representative of the United States. His long residence in Mexico, and his familiarity with the language and institutions of that country, rendered him eminently fit to perform the duties required of a representative in those revolutionary times, and he did perform the same as effectively as any diplomatic representative could. The uprightness, fair dealing, and probity of Mr. Black during his long service as consul, extending over a period of more than twenty years, is vouched for fully at the State Department.

Your committee, in their dealings with applications of consuls for additional compensation for the temporary performance of duties not strictly belonging to their official position, have usually rejected such claims; but in this case the services were so valuable and so far beyond the exceptional duties sometimes performed by other consuls, that they believe Mr. Black is entitled to compensation.

Your committee, therefore, recommend the passage of the accompanying bill, with an amendment.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 32.

JOHN SEYS, CONSUL GENERAL TO LIBERIA.

FEBRUARY 11, 1871.—Ordered to be printed.

Mr. SWANN, from the Committee on Foreign Affairs, made the following

REPORT.

The Committee on Foreign Affairs, to whom was referred the petition of John Seys, minister resident and consul general at Liberia, submit the following report:

That on the 15th of November, 1867, a leave of absence was granted to John Seys for six months. In acknowledging the receipt of the same, on the 15th of January, 1868, he stated that it was not probable that he could find it convenient to avail himself of the permission until June 1. This correspondence shows that he left about the middle of May, and was absent until the 15th of December, 1868, when he returned to his post.

On his arrival in the United States, at his home in Ohio, the Secretary of State transmitted to him a copy of the consular and diplomatic act of 30th March, 1868, with a letter inviting his attention to the third section of that act.

It appears from information received from the Fifth Auditor that, owing to the incompleteness of the accounts of Mr. Seys, they have not been adjusted; that he charges salary for sixty days, and also for fifty-eight days, transit in returning to his post, and for the services of W. A. Johnson, vice consul general, $166 66 for four months.

There being no authority in the consular and diplomatic appropriation act of 30th March, 1868, to meet the claims of Mr. Seys, as before stated, they were refused both by the former and present Secretary of State.

The committee see no reason why Mr. Seys should be exempted from the general provisions of the act above referred to, by making Liberia an exception to the rule therein established by a special act of Congress.

The committee respectfully submit the following resolution:

Resolved, That this committee entertain unfavorably the petition of Mr. John Seys, minister resident and consul general at Liberia, and ask to be discharged from the further consideration of the same.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 33.

GEORGE F. ROBINSON.

[To accompany joint resolution H. Res. No. 501.]

FEBRUARY 11, 1871.—Ordered to be printed.

Mr. PORTER SHELDON, from the Committee on Foreign Affairs, made the following

REPORT.

The Committee on Foreign Affairs, to whom were referred the resolutions of the legislature of the State of Maine, declaring that the heroic conduct of George F. Robinson, late a private in the Eighth Regiment of Maine Volunteers, in saving the life of Secretary Seward from the knife of an assassin, at the imminent peril of his own life, and at the expense of permanent wounds, should receive public recognition by the Congress of the United States, to the end that his noble deeds may be known and remembered by the American people, and that provision may be made for his future welfare such as right and justice demand, and the generous impulse of a grateful people require, respectfully submit the following report:

That on the 15th day of August, 1863, George F. Robinson enlisted in the Eighth Regiment of Maine Volunteers. On the 20th day of May, 1864, at an attack at Burmuda Hundred, made on General Butler's lines by the rebels, Robinson was wounded very severely in the leg by a canister shot. He was sent to Douglas Hospital in this city, where he lay nearly a year undergoing great suffering from his wound. On the memorable 14th day of April, 1865, although his wound was not then entirely healed, he was detailed from the hospital to act as nurse to Mr. Seward, the Secretary of State, who, it will be remembered, was confined to his bed by serious injuries—a broken arm and jaw. At 10 o'clock that night Robinson was on duty in Mr. Seward's room, when the assassin, Payne, sought that room to murder the feeble, wounded, helpless Secretary, in pursuance of the great conspiracy which ended with filling the whole civilized world with horror. The Secretary was sleeping; the room was darkened. Robinson hearing a disturbance in the hall opened the door; a flood of light streamed on him from the hall. On the threshold stood the athletic assassin, a revolver in one hand and a huge bowie knife in the other. He saw against the wall the wounded, crazed Assistant Secretary, with blood pouring from his wound. He caught the gleam of that terrible knife aimed at his throat; instinctively he struck up at the assassin's arm to ward off the knife, partially succeeded, but received the blow upon his head, and was prostrated to the floor. Bounding over him, Payne rushed on to the bed, and commenced wildly striking with the knife at the throat of the Secretary. Already he had cut the flesh off from one cheek to the bone, and the blood gushed in torrents over the pillow. This soldier, just from the hospital, with his wounded leg not yet healed, enfeebled from his year of suffering and pain, just prostrated to the floor by a blow

from that terrible knife, springs to his feet, and without one moment's hesitation, without one moment's thought for himself, save, as he swears, the thought that he must die to save the Secretary; without a weapon of any description, with a bravery never surpassed in the annals of any country, he opposed his naked hands, his wounded and enfeebled body, to the terrible knife of the gigantic and desperate murderer. He seized the assassin just as the deadly knife was about to bury itself in the throat of the Secretary, and then commenced an unequal struggle which seemingly can only end in the death of the brave soldier. Having succeeded in dragging Payne from off the bed, he receives over his shoulder two deep wounds down his back, inflicting injuries from which one side of his face and two fingers of one hand are still partially paralyzed. He received two more wounds under his left shoulder blade, which proved nearly fatal, and received blows about the head and face from the revolver. At last Payne, probably becoming alarmed for his own safety should he spend more time in the house, wrenched himself loose and fled, stabbing a messenger from the State Department on his way down stairs. Disregarding his own desperate wounds, the blood from which was filling his shoes, with the help of Mr. Seward's daughter Robinson placed the insensible and mangled form of the Secretary on the bed from which he had fallen, and re-covering the gashed cheek with its flesh, he placed his fingers on the wounded artery from which Mr. Seward's life was fast passing, and with the same coolness, the same utter self-abandonment, he kept his position, though scarcely able to stand, and believing himself fatally wounded, until relieved by the arrival of the Surgeon General. After the Secretary's wounds were dressed his own were attended to, and he was the same night carried back to the hospital.

On the 17th day of May following Robinson was honorably discharged from the service. Finding himself unable to labor on a farm, by reason of his wounds, he was obliged to sell his little place for some $1,200, and sought employment as a Government clerk. He is now a clerk in the Quartermaster General's Department, at a salary of $1,200 per year, and has no other means of supporting himself, his wife, and boy, except a pension of $8 per month for wounds received on the field of battle. Robinson is a modest man, of excellent character, and a faithful and efficient clerk.

The committee unanimously recommend the passage of the accompanying joint resolution.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 34.

JOHN E. HAGERTY.

[To accompany H. Res. No. 503.]

FEBRUARY 11, 1871.—Ordered to be printed.

Mr. BOYD, from the Committee on the Post Office and Post Roads, made the following

REPORT.

The Committee on the Post Office and Post Roads, to whom was referred the petition of John E. Hagerty, of St. Louis, report:

That on July 1, 1870, he commenced to carry the United States mails between East St. Louis, in the State of Illinois, and St. Louis, in the State of Missouri, at the rate of $4,858 per annum; that the service then required but three wagons to do all the work, and but this number had been used by his predecessor, who had been carrying the said mails for the period of about four years, and had been able to do all the service with three wagons, for which he received pay at the rate of $5,200 per annum. Since the petitioner undertook the service the number of railroad connections has been so largely increased that the service has been unexpectedly and very largely increased, so that seven teams are now needed to do the work formerly done by three. The ferries, also, have raised their tolls 30 per cent., and the St. Louis postmaster reports the service increased 50 per cent. since the present contractor assumed the work. The petitioner shows an actual outlay of near ten thousand dollars per annum for a service for which he receives less than five thousand dollars. Under the law the Postmaster General cannot increase his pay; and he will soon suspend, from inability to sustain the loss if not relieved. He will lose about five thousand dollars if the present resolution is not passed; and the Government will be enabled to get a more favorable contract if advertised for now than if further delayed, or if the Department were allowed to increase the pay in proportion to the actual increase of service performed.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 35.

GOVERNMENT FOR THE DISTRICT OF COLUMBIA.

FEBRUARY 15, 1871.—Ordered to be printed.

Mr. COOK, from the committee of conference on the part of the House, made the following

REPORT.

[To accompany bill S. No. 594.]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill (S. 594) to provide a government for the District of Columbia, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its vote of non-concurrence and agree to the amendment proposed by the House of Representatives, with the following amendments, to wit:

In section 1, line 6, after the word "Columbia," insert "by which name it is hereby constituted a body corporate for municipal purposes, and may contract and be contracted with, sue and be sued, plead and be impleaded, have a seal, and exercise all other powers of a municipal corporation not inconsistent with the Constitution and laws of the United States and the provisions of this act."

In section 2, line 1, strike out the word "reside," and in lieu thereof insert the words "shall have resided." In line 8, in the same section, after the word "district," insert the words "twelve months before his appointment."

In section 3, line 12, after the word "reconsidered," strike out the word "and."

In section 4, line 23, after the word "the," strike out the word "officers," and in lieu thereof insert the word "offices."

In section 5, line 5, after the word "members," insert "of whom two shall be residents of the city of Georgetown, and two residents of the county outside of the cities of Washington and Georgetown."

In the same section, line 18, strike out the words "qualified voters," and substitute in place thereof the word "population."

In the same section strike out all after the word "respectively," in line 21, as far as and including the word "that," line 30, and in place thereof insert: "For the purposes of the first election to be held under this act, the governor and judges of the supreme court of the District of Columbia shall designate the districts for members of the house of delegates, appoint a board of registration, and persons to superintend the election and the returns thereof, prescribe the time, places, and manner of conducting such election, and make all needful rules and regulations for carrying into effect the provisions of this act not otherwise herein provided for: *Provided*, That the first election shall be held

within sixty days from the passage of this act. In the first and all subsequent elections the three persons having the highest number of legal votes for the house of delegates, respectively, shall be declared by the governor duly elected members of said house."

After section 5 insert, as a new section:

"*And be it further enacted*, That the legislative assembly shall have power to divide that portion of the District not included in the corporate limits of Washington and Georgetown into townships, not exceeding three, and create township officers, and prescribe the duties thereof; but all township officers shall be elected by the people of the townships respectively."

In section 6, line 3, strike out the word "twelve," and substitute in lieu thereof the word "three."

In line 4 of said section 6 strike out the words "first election," and substitute in place thereof, "passage of this act."

In line 8 of the same section strike out the words "prior to," and substitute in place thereof, "immediately preceding."

In line 9 of the same section, after the word "District," insert "and for all subsequent elections twelve months' prior residence shall be required to constitute a voter."

In section 7, line 5, after the word "over," insert "upon final judgment duly recovered."

In section 9, line 20, strike out the word "provided," and substitute in lieu thereof the word "punished."

In section 13, line 7, after the word "elected," insert "or appointed," and after the word "house," insert "as herein provided." In line 19 of the same section, after the word "law," insert "in at least two newspapers in the District."

In line 21 of the same section, strike out the words "at the time," and substitute in lieu thereof "in the act."

In section 16, line 2, strike out the words "local or."

In section 21, line 10, after the word "other," add "nor shall said cities, or either of them, be taxed for the exclusive benefit of the county outside of the limits thereof: *Provided*, That the legislative assembly may make appropriations for the repair of roads, or for the construction or repair of bridges outside the limits of said cities."

Strike out all of section 24, after the word "District," in line 7 of said section.

After section 24, insert as a new section:

"*And be it further enacted*, That there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, a board of health for said District, to consist of five persons, whose duty it shall be to declare what shall be deemed nuisances injurious to health, and to provide for the removal thereof; to make and enforce regulations to prevent domestic animals from running at large in the cities of Washington and Georgetown; to prevent the sale of unwholesome food in said cities; and to perform such other duties as shall be imposed upon said board by the legislative assembly."

In section 25, after the word "of," in line 2, insert "register of wills, recorder of deeds."

At the end of section 26 add the following proviso: "*Provided*, That the powers of corporations so created shall be limited to the District of Columbia."

In section 29, line 2, strike out the words "police judge or judges," and substitute in place thereof "other officers." In the same section, after the words "take," in line 4, insert the words "and subscribe," and after

the word "take," in line 16, insert the words "and subscribe," and in line 23, after the word "taken," insert the words "and subscribed."

In section 32, after the word "Columbia," in line 4, insert "and shall have the qualifications of a voter," and in line 9 of the same section, after the word "representatives," insert "and shall also be a member of the Committee for the District of Columbia."

Strike out all of section 34.

In section 35, strike out from the word "all," in line 2, to the word "belonging," in line 3, and substitute in place thereof the words "real estate." Strike out all of line 5 and line 6 in said section 35, as far and including the word "schedules," and insert "and the grounds which have been dedicated to the public parks and squares."

In line 6 of the same section strike out the word "two," and substitute in lieu thereof the word "five." In the same section strike out all after the word "taken," in line 10, as far as and including the word "aforesaid," in line 12, and insert "and the aggregate of the valuation of private property in said District, whenever made by the authority of the legislative assembly, shall be reported to Congress by the governor."

Strike out all of section 35 after the word "appoint," in line 15, and substitute in place thereof "and under such regulations as he shall prescribe."

Strike out all of section 36.

In section 37, strike out the word "two" in line 3, and substitute in place thereof the word "four."

Strike out all after the word "therein," in line 8, as far as and including the "President," in line 12, and in place thereof insert "one of said board shall be a citizen and resident of Georgetown, and one of said board shall be a citizen and resident of the county outside of the cities of Washington and Georgetown."

In line 14, strike out the words "for misbehavior," and substitute in lieu thereof "by the President of the United States."

In line 15, strike out the word "ordinances," and substitute in place thereof the word "regulations."

In line 16, strike out the words "relating to," and substitute in place thereof the words "for keeping in repair," and after the word "avenues," in the same line, insert the word "alleys."

In line 19, strike out the words "received and," and after the word "disburse" insert the words "upon their warrant."

In line 20, after the words "United States," insert "in the District of Columbia," and after the words "property holders," insert the words "in pursuance of law."

In line 21, after the word "avenues," insert the word "alleys," and after the word "sewers," insert "and roads and bridges."

In line 22, strike out the words "and collect;" also strike out the words "they shall prescribe from," and substitute in place thereof the words "shall be prescribed by law upon."

In line 23, strike out the words "owners of any;" also strike out the word "speedily," and substitute in place thereof the word "specially."

In line 26, after the word "cost," insert "which sum shall be collected as all other taxes are collected."

In line 29, after the word "assembly," insert "all contracts made by the said board of public works shall be in writing, and shall be signed by the parties making the same, and a copy thereof shall be filed in the office of the secretary of the District; and the said board of public works shall have no power to make contracts to bind said District to the payment of any sums of money, except in pursuance of appropria-

tions made by law, and not until such appropriations shall have been made. All contracts made by said board in which any member of said board shall be personally interested shall be void, and no payment shall be made thereon by said District, or any officers thereof."

After the word "District," line 26, section 40 add: "*Provided*, That the charters of said cities severally, and the powers of said levy court, shall be continued for the following purposes, to wit: For the collection of all sums of money due to said cities, respectively, or to said levy court; for the enforcement of all contracts made by said cities, respectively, or by said levy court; and all taxes heretofore assessed remaining unpaid for the collection of all just claims against said cities, respectively, or against said levy court; for the enforcement of all legal contracts against said cities, respectively, or against said levy court, until the affairs of said cities, respectively, and of said levy court, shall have been fully closed; and no suit in favor of or against said corporations, or either of them, shall abate by reason of the passage of this act, but the same shall be prosecuted to final judgment, as if this act had not been passed."

Also add:

"SECTION 41. *And be it further enacted*, That there shall be no election holden for mayor or members of the common council of the city of Georgetown prior to the first day of June, eighteen hundred and seventy-one, but the present mayor and common council of said city shall hold their offices until said first day of June next. No taxes for general purposes shall hereafter be assessed by the municipal authorities of the cities of Washington and Georgetown, or by said levy court. And upon the repeal of the charters of the cities of Washington and Georgetown, the District of Columbia be, and is hereby, declared to be the successor of said corporations, and all the property of said corporations, and of the county of Washington, shall become vested in the said District of Columbia. All fines, penalties, costs, and forfeitures which are now by law made payable to said cities, respectively, or said levy court, shall be paid to said District of Columbia, and the salaries of the judge and clerk of the police court, the compensation of the deputy clerk and bailiff of said police court, and of the marshal of the District of Columbia shall be paid by said District: *Provided*, That the moneys collected upon the judgments of said police court, or so much thereof as may be necessary, shall be applied to the payment of the salaries of the judge and other officers of said court, and to the payment of the necessary expenses thereof, and any surplus remaining after paying the salaries, compensations, and expenses aforesaid shall be paid into the treasury of the District at the end of every quarter."

And the committee further recommend that the House agree to the amendments to the House amendment herein proposed.

J. W. PATTERSON,
H. HAMLIN,
Managers on the part of the Senate.
BURTON C. COOK,
JNO. A. BINGHAM,
D. W. VOORHEES,
Managers on the part of the House.

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41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 36.

PUBLIC HIGHWAYS IN THE DISTRICT OF COLUMBIA.

[To accompany H. R. No. 3048.]

FEBRUARY 16, 1871.—Ordered to be printed.

Mr. STONE, from the Committee on the District of Columbia, made the following

REPORT.

In obedience to the order of the House of Representatives passed December 15, 1870, in the following words:

Resolved, That the Committee for the District of Columbia be instructed to inquire whether the charters of the Washington and Rockville Turnpike Company and the Columbia Turnpike Roads Company have not been forfeited by wilful neglect and non-compliance with the terms thereof, with leave to report by bill or otherwise—

the committee after giving due notice to the persons interested, taking testimony, and hearing those interested, now respectfully report:

That there are two turnpike roads leading out of the city of Washington against which complaints have been made—one generally called the Bladensburg turnpike road, which leads from the city limits toward the village of Bladensburg, and the other generally called Seventh-street road, leading from the city limits toward Brookville, in Montgomery County, Maryland.

The first of these roads was incorporated by act of Congress passed April 20, 1810, (2 Stat. at Large, page 570,) and was intended to connect, and did in fact connect with a turnpike road incorporated by the State of Maryland, leading from the District line to the city of Baltimore. It is apparent that the only object of the incorporation of this road within the District was to establish a good road between the cities of Washington and Baltimore, this being before the establishment of railroads. It appears, however, that some years ago, and after the opening of the railroad between Baltimore and Washington, the turnpike company incorporated by the State of Maryland suffered their road in the State to become out of the order required by their charter, and upon complaint made, the State ordered legal proceedings against the company, and after years of litigation the charter was finally declared forfeited by the courts of Maryland. This action of Maryland left this turnpike within the District, about two and a half miles long, leading from the city to the District line, standing a useless link of a broken chain. As to the question whether this road has complied with its charter, we think there can be no doubt from the evidence brought before us. The charter requires the road to be made and kept "at least twenty-four feet in width of stone, gravel, or other hard substance of sufficient depth or thickness to secure a solid and firm road." The evidence is conclusive and overwhelming that this road has not complied with these requisites of its charter; but, on the contrary, is at no time of the year in the order imperatively demanded as the condition of its corporate existence, and at some seasons is almost impassable, and this in the face of the fact that it pays large dividends, and is therefore without a

shadow of excuse for its condition. In fact, the company hires out the road to the toll-gatherer for a thousand dollars a year for this two and a half miles of road. With regard to the Seventh-street road the case is somewhat different. It connects with the Brookville turnpike road, leading some twenty or more miles into Montgomery County, and although the testimony shows the road is not in the condition required by the charter, yet it also appears, from the testimony, that the company have applied the whole earnings upon the road, and have declared no dividends since 1866. But still the fact is very apparent from the whole of the testimony that the road does not come up to the requirements of the charter.

But while your committee are clearly of the opinion that these roads have not complied with the law of their creation, they are equally clear in their opinion that the judicial and not the legislative department of the Government is the proper tribunal to decide the question whether a corporation has forfeited its charter. No precedent can be found of "the legislature" undertaking to forfeit a charter, and such a course would, in our opinion, be a most unwarrantable exercise of forbidden power.

The power of the legislature is, however, ample in the premises. It has the undoubted right to *condemn* the franchise of a corporation as well as the property of an individual, whenever the public good may require. This question has been fully considered and settled by the Supreme Court of the United States, who have decided that the property and *franchises* of a corporation may be condemned in the same manner as the property of an individual, whenever the public good may require, and that the legislature is the sole judge of the necessity and expediency of such condemnation, subject only to the constitutional restraint of making *just compensation* therefor. (West River Bridge Co. *vs.* Der and al., 6th Howard.)

It has been shown that legal proceedings have been commenced to forfeit the charter of these companies, and it is urged in argument that the legislature should not interfere. This, in the view we take of the matter, is not the true issue. The truesubject for Congress to consider is whether the *public good* requires the condemnation of these roads, the right to do so being clear.

Are the facts presented sufficient to authorize the determination that the *public good* requires the condemnation of these roads? We think they are sufficient and that it is manifestly the duty of the legislature to interfere. The proceedings at law to annul these charters may last many years and in the mean time the people must suffer great and continued inconvenience.

If these roads were in the most perfect condition required by their charter, the public good, we think, would require their abolition. One of them, the Bladensburg road, has its gate about fifty feet from the city limits, and is a tax upon all ingress and egress to and from the city in that direction. This gate lies between the city of Washington and the largest and only Catholic cemetery of the city, and toll is collected from every funeral procession when on its way to the grave. Every market gardener and small farmer bringing the products of his labor to the city over this road is taxed for it. It is in truth a tax upon their labor.

It is manifestly unjust to deprive the people whose business leads them to or from the city over these roads of the benefits of the free ingress and egress which is enjoyed by the people on other roads. It seems to us a self-evident proposition that the interest of the city requires that facilities of egress and ingress should be as free as possible.

But when, in addition to these reasons, we add the fact that the road is in a bad condition and that the travel over it gets no true value for their tolls, we think the clearest case is presented for immediate action on the part of Congress.

As to the Seventh-street road the facts are somewhat different, but the conclusions we reach are the same.

This road does connect with a good turnpike road, and is the main avenue of travel from Montgomery County into the city. The company have shown that for years past they have expended all their earnings upon the road; and as the evidence shows that the road is not in condition required by its charter, therefore the just conclusion is that the company are not able to furnish the community with such a road as the necessities of the travel demand and their charter requires; it seems but just and reasonable that the road should be taken out of their hands and placed in the hands of those who can keep it in order.

We therefore recommend that both these roads be immediately condemned and made free public highways; that the damages be assessed in the usual manner, and as the city of Washington will be principally benefited, that the expense of such assessment be borne by the city and county of Washington somewhat in the proportion to the population and property of each, and herewith report a bill to carry out these provisions.

WASHINGTON, D. C., *January* 14, 1871.

The committee met; Mr. Muzzy appeared for the objectors and Mr. Temple for the turnpike company.

Mr. MUZZY stated that the objectors complained of the violation of the charter granted to the turnpike company, dated April 25, 1810, which required the company to cause at least twenty-four feet in breadth throughout the whole length of the road to be made an artificial road of stone, gravel, or other hard substance, of sufficient depth and thickness to secure a solid and firm road, and to be so nearly level that it should in no case rise or fall more than at an angle of four degrees from a horizontal line, and required the road to be kept in good and perfect repair, and bridges to be built of sound and suitable materials. The objectors complained that it was not an artificial road of twenty-four feet in width throughout the whole length; that it was not made of stone, gravel, or other hard substance, but that in places it was made of mud and sand. They complained that it was not level; that it was not kept in good repair; and that the bridges were not built of sound and suitable materials.

The objectors also alleged violation of the charter in the 12th section of it, which provides that whenever the net proceeds of tolls collected shall amount to a sum sufficient to reimburse the capital expended in the purchase of the land and the making of the road, with 12 per cent. per annum thereon, the road shall become free and toll shall no longer be collected on it, and provides that the company shall annually make returns to the circuit court of the District of Columbia of the amount of tolls collected. These returns had not been made for the last ten years and more.

Mr. STONE. I understand your objection to be, first, that the company has not complied with the terms of the charter in keeping the road of the prescribed width or in making it of the prescribed materials?

Mr. MUZZY. Yes, sir.

Mr. STONE. And, secondly, that the company has not complied with the terms of the charter in neglecting to return to the circuit court of the District of Columbia a statement of the amount of tolls received and of the expenses?

Mr. MUZZY. Yes, sir. The first objection is that the road is not made and kept in repair according to the terms of the charter; and the second, that the company has not made returns to the court according to the terms of the charter.

Mr. MCKENZIE. The charter is too long in operation to take up now the question of the manner in which the road was built; the committee must confine its inquiry to whether the road is now in good condition. It is not worth while to go back 50 or 60 years to find if the road was originally built right.

shadow of excuse for its condition. In fact, the company hires out the road to the toll-gatherer for a thousand dollars a year for this two and a half miles of road. With regard to the Seventh-street road the case is somewhat different. It connects with the Brookville turnpike road, leading some twenty or more miles into Montgomery County, and although the testimony shows the road is not in the condition required by the charter, yet it also appears, from the testimony, that the company have applied the whole earnings upon the road, and have declared no dividends since 1866. But still the fact is very apparent from the whole of the testimony that the road does not come up to the requirements of the charter.

But while your committee are clearly of the opinion that these roads have not complied with the law of their creation, they are equally clear in their opinion that the judicial and not the legislative department of the Government is the proper tribunal to decide the question whether a corporation has forfeited its charter. No precedent can be found of "the legislature" undertaking to forfeit a charter, and such a course would, in our opinion, be a most unwarrantable exercise of forbidden power.

The power of the legislature is, however, ample in the premises. It has the undoubted right to *condemn* the franchise of a corporation as well as the property of an individual, whenever the public good may require. This question has been fully considered and settled by the Supreme Court of the United States, who have decided that the property and *franchises* of a corporation may be condemned in the same manner as the property of an individual, whenever the public good may require, and that the legislature is the sole judge of the necessity and expediency of such condemnation, subject only to the constitutional restraint of making *just compensation* therefor. (West River Bridge Co. *vs.* Der and al., 6th Howard.)

It has been shown that legal proceedings have been commenced to forfeit the charter of these companies, and it is urged in argument that the legislature should not interfere. This, in the view we take of the matter, is not the true issue. The truesubject for Congress to consider is whether the *public good* requires the condemnation of these roads, the right to do so being clear.

Are the facts presented sufficient to authorize the determination that the *public good* requires the condemnation of these roads? We think they are sufficient and that it is manifestly the duty of the legislature to interfere. The proceedings at law to annul these charters may last many years and in the mean time the people must suffer great and continued inconvenience.

If these roads were in the most perfect condition required by their charter, the public good, we think, would require their abolition. One of them, the Bladensburg road, has its gate about fifty feet from the city limits, and is a tax upon all ingress and egress to and from the city in that direction. This gate lies between the city of Washington and the largest and only Catholic cemetery of the city, and toll is collected from every funeral procession when on its way to the grave. Every market gardener and small farmer bringing the products of his labor to the city over this road is taxed for it. It is in truth a tax upon their labor.

It is manifestly unjust to deprive the people whose business leads them to or from the city over these roads of the benefits of the free ingress and egress which is enjoyed by the people on other roads. It seems to us a self-evident proposition that the interest of the city requires that facilities of egress and ingress should be as free as possible.

But when, in addition to these reasons, we add the fact that the road is in a bad condition and that the travel over it gets no true value for their tolls, we think the clearest case is presented for immediate action on the part of Congress.

As to the Seventh-street road the facts are somewhat different, but the conclusions we reach are the same.

This road does connect with a good turnpike road, and is the main avenue of travel from Montgomery County into the city. The company have shown that for years past they have expended all their earnings upon the road; and as the evidence shows that the road is not in condition required by its charter, therefore the just conclusion is that the company are not able to furnish the community with such a road as the necessities of the travel demand and their charter requires; it seems but just and reasonable that the road should be taken out of their hands and placed in the hands of those who can keep it in order.

We therefore recommend that both these roads be immediately condemned and made free public highways; that the damages be assessed in the usual manner, and as the city of Washington will be principally benefited, that the expense of such assessment be borne by the city and county of Washington somewhat in the proportion to the population and property of each, and herewith report a bill to carry out these provisions.

WASHINGTON, D. C., *January* 14, 1871.

The committee met; Mr. Muzzy appeared for the objectors and Mr. Temple for the turnpike company.

Mr. MUZZY stated that the objectors complained of the violation of the charter granted to the turnpike company, dated April 25, 1810, which required the company to cause at least twenty-four feet in breadth throughout the whole length of the road to be made an artificial road of stone, gravel, or other hard substance, of sufficient depth and thickness to secure a solid and firm road, and to be so nearly level that it should in no case rise or fall more than at an angle of four degrees from a horizontal line, and required the road to be kept in good and perfect repair, and bridges to be built of sound and suitable materials. The objectors complained that it was not an artificial road of twenty-four feet in width throughout the whole length; that it was not made of stone, gravel, or other hard substance, but that in places it was made of mud and sand. They complained that it was not level; that it was not kept in good repair; and that the bridges were not built of sound and suitable materials.

The objectors also alleged violation of the charter in the 12th section of it, which provides that whenever the net proceeds of tolls collected shall amount to a sum sufficient to reimburse the capital expended in the purchase of the land and the making of the road, with 12 per cent. per annum thereon, the road shall become free and toll shall no longer be collected on it, and provides that the company shall annually make returns to the circuit court of the District of Columbia of the amount of tolls collected. These returns had not been made for the last ten years and more.

Mr. STONE. I understand your objection to be, first, that the company has not complied with the terms of the charter in keeping the road of the prescribed width or in making it of the prescribed materials?

Mr. MUZZY. Yes, sir.

Mr. STONE. And, secondly, that the company has not complied with the terms of the charter in neglecting to return to the circuit court of the District of Columbia a statement of the amount of tolls received and of the expenses?

Mr. MUZZY. Yes, sir. The first objection is that the road is not made and kept in repair according to the terms of the charter; and the second, that the company has not made returns to the court according to the terms of the charter.

Mr. MCKENZIE. The charter is too long in operation to take up now the question of the manner in which the road was built; the committee must confine its inquiry to whether the road is now in good condition. It is not worth while to go back 50 or 60 years to find if the road was originally built right.

CLARK MILLS sworn and examined.

To Mr. MUZZY:

My residence is in the county of Washington, in the District of Columbia; it is about a mile and a half or a mile and three quarters-from the toll-gate at the boundary line on the Bladensburg turnpike road. I purchased the place in 1854, and have resided there ever since.

Question. State whether you have been traveling over the road for the last few years, and what its condition has been?—Answer. I had my attention brought more particularly to the condition of the road in 1866, when I started a son of mine in the dairy business on a farm. The road became so bad at one time that it required two horses to do the work of one, and finally it became so impassable that teams had to leave the turnpike altogether and go through the fields on Mr. Hickey's farm.

Q. Were any efforts made to repair the road at that time?—A. No, sir; no efforts whatever. I went myself to the president of the road, Dr. Gunton, and stated the case to him. He said he could do nothing; that he had rented the road to Mr. Benson, the toll-gate keeper, and that Mr. Benson had obligated himself to keep the road in thorough repair. I then went to Mr. Benson and he used rather insulting language to me, saying that a man must be a fool to come to him at that time of the year to repair a road. I told him that he should repair it when he could repair it. That was in the latter part of January, 1866. There had been a severe freeze, and the frost had come out of the ground suddenly and had left the road in such a spongy condition that the wheels would go down to the axles and frequently get stalled. The road is far from having a solid bed now. It is a good road perhaps in the summer and in the dry seasons of the year, but at other seasons of the year it is impassable.

Q. How is it now?—A. It is not so bad now. When the ground freezes deeply, and then a thaw comes, the clay bottom becomes spongy and the wheels cut right down into it.

By Mr. MCKENZIE:

Q. It is not covered with rock?—A. No, sir. There never has been more than eight feet wide of it graveled. This information I have from a gentleman who stated that eight feet wide of gravel was sufficient, as the wheels would scatter it over. My attention was called to it the other day to examine the road in its present condition. I suppose that in the best parts of the road there is but from ten to fifteen feet of gravel bed; get outside of that and you are in clay bottom again. The charter requires twenty-four feet of gravel bed. I investigated the subject three years ago when the trouble was so great about the road. I hunted up the law and went to the president of the road and said, "All we want is a good road; we want such a road that our farmers can take their produce over it to market in any weather," because when our lands will not allow plowing or cultivation we send teams with produce to market.

By Mr. MUZZY:

Q. What is the condition of the bridges on the line of road; how wide are they; are they twenty-four feet?—A. No, sir; they are not. I never measured them. One of the bridges gave way in my time, and we had to go for many months through the fields before the bridge was rebuilt in consequence of the cobble-stone being washed out.

By Mr. MCKENZIE:

Q. You say that the company rents out the road to the toll-gate keeper?—A. Yes. I was told the other day by the toll-gate keeper that, if we wanted to pass over the road free, the best way was to go to Congress and ask Congress to buy it up. I said that the trouble about that was that the road was offered for $10,000, and that Congress objected that it would not buy a road which had not complied with its charter.

By Mr. STONE:

Q. What are the tolls on the road?—A. My toll now is, by the year, about $30 a year.

Q. That is for anything you wish to send?—A. Yes.

Q. You do not know the tolls by the single vehicle?—A. They are prescribed in the charter.

Q. What is the length of the road?—A. About two and a quarter miles is all that the company pretends to own.

C. M. ALEXANDER sworn and examined.

To Mr. MUZZY:

I own a place very near the Bladensburg turnpike road, and in reaching it I have to travel on that road for about three-fourths of a mile. I live near Mount Olivet cemetery. In the spring of 1866 the road was in an impassable condition. In going to the city we were compelled to travel through the adjacent fields. At that time I had oc-

casion, through some of the papers, to call attention to the inhuman manner in which the corpses going to the cemetery were jolted and jostled. I think that during that spring there was no toll charged. I do not think there was any toll-gate keeper there at all. Everything was free there for several months, while the road was in that condition. As to the width of the road, I have frequently had occasion to measure it by my step, and my own judgment is, that the road is not over twenty-one feet wide in any place. From the toll-gate, on toward Mount Olivet cemetery, the road varies from eighteen feet wide, from bank to bank, to twenty-one feet. My father, who lived with me, had his finger broken by having his buggy upset, from not being able to pass a team on the road.

By Mr. STONE:

Question. How much of that eighteen or twenty-one feet is gravel road?—Answer. It is difficult to determine. I should suppose that there had been a little gravel thrown on the center of the road, and that it had been dispersed toward the sides. As you get to the sides of the road the gravel gradually decreases, but it is not deep enough in any place to stand the frost, or prevent the road being cut through by the wheels when the rains come.

By Mr. MUZZY:

Q. Are there ruts in the road, or is the road smooth and level?—A. The road is not what we would call smooth or level; it is what you might call a very ordinary, common country road.

Q. How much repairing is put on the road annually, on that part of it which you travel over?—A. I can hardly estimate that. I have sold the company gravel to the amount of about twenty-four dollars, and I think they may have put twenty-five or thirty dollars' worth of repairs on the road. They bought gravel from me, and I think they bought it nowhere else. The gravel which they got in other parts was clay and gravel mixed.

Q. Has there been any macadamizing put on the road since you have been there?—A. No, sir, except to fill up a hole now and then. They would put it in the center, about six or eight feet, and then, as the outside became impassable, wagons would drive on this and spread the gravel.

Q. Is it possible for two wagons to pass each other abreast on the graveled part of the road?—A. No, sir, it is not possible.

Q. How is it about two loads of hay passing each other?—A. They could not do it on the road proper.

Q. How about the bridges—can two vehicles pass on the bridges?—A. There are but two bridges on the road. Two loads of hay cannot pass on the bridges; but two vehicles can pass, by one vehicle making room for the other. The difficulty in driving to Mount Olivet Cemetery is, that funeral processions take the center of the road, and every gentleman passing up the road is compelled to join in the procession for about half a mile, not being able to pass.

By Mr. STONE:

Question. Is that a large cemetery?—Answer. Yes; it is the cemetery where all the Catholics in the city are buried. I presume the interments average from three to five a day.

Q. Is that the only road to get there?—A. It is the only road to the cemetery.

Mr. MUZZY stated that the interments at Mount Olivet Cemetery, from June 1, 1868, to December 31, 1868, were 578; the interments for 1869, 649; and the interments for 1870, 674.

Q. How far is it from the toll-gate to the cemetery?—A. Between half and three-quarters of a mile.

Q. Has the road been in the condition which you have spoken of every winter?—A. Not in as bad condition as it was during that season. It depends upon whether the weather is cold or wet. If we have a rainy season, the road is impassable; and if we have a cold spell, when the frost comes out of the ground, the road becomes impassable.

By Mr. MCKENZIE:

Question. Do you know how long the road has been rented to the toll-gate keeper?—Answer. I do not know. He has been renting it, I think, since I went there, which was in 1865.

By Mr. STONE:

Question. Have they bought all the gravel that was used on the road from you?—Answer. Yes, so far as I know. They have taken some from the banks outside, but it was a mixture of gravel and clay. I do not know of any pure gravel that they bought, except from me.

THOMAS PETER sworn and examined.

To Mr. MUZZY:

I live on the line of the Bladensburg road, about a mile and three-quarters from the toll-gate. I have lived there since a year last October. The road has been in a very bad condition for a turnpike road. I have traveled on a good many turnpike roads in Virginia and Maryland.

Question. You have heard that the charter requires the road to be sixty-six feet wide, of which twenty-four feet is to be an artificial road, made of stone, gravel, or other hard substance; how has that requirement been carried out for the mile and three-quarters that you travel over?—Answer. I came over the road this morning. There is about one or two hundred yards of the road at this side of my gate which there is no gravel upon, nor stone. There are ruts of from six to twelve inches depth there this morning. I do not say that all the road is like that, but I say that a hundred yards of it there has not got a bit of gravel on it—nothing but the dirt scraped on each side.

Q. Do you commute your tolls by the year?—A. Yes. When I rented my place out last year, I was to pay one-third of the tolls, and the tenant was to pay two-thirds. I paid $10, and I presume the tenant pays the other two-thirds, which will make $30 in all. The road will be worse than it is now, if rain comes; but there is very little moisture in the ground, and consequently the country roads have not cut up much yet.

By Mr. TEMPLE:

Q. You say that you have been in the habit of passing over the turnpike roads in Virginia and Maryland; were none of them so bad that wheels could not penetrate?—A. I have traveled over the Shenandoah Valley turnpike road and the Northwestern and Western Virginia turnpike roads, away out in the Wilderness, and from Frederick to Hagerstown, and from Hagerstown to Williamsport, and from Rockville to Georgetown, but never found a road so bad as this. I do not say that all the road is like that near my gate. I do not call that a pike at all; I call that a dirt road; there is no gravel at all upon it.

By Mr. STONE:

Q. Do you know anything about the width of the road between the ditches?—A. No, sir.

Q. Can two loaded teams pass?—A. Not on the solid road. In some places they may do it. The road certainly is not twenty-four feet of hard material in all places.

By Mr. MCKENZIE:

Q. You think it a mighty poor road to lead to the seat of the Federal Government?—A. I consider it a disgrace to the United States Government to have such a road close to the city.

ANTON RUPERT sworn and examined.

To Mr. MUZZY:

I live on the line of the Bladensburg turnpike, about three-quarters of a mile from the toll-gate. I am a butcher by trade and drive teams over the road every morning. In 1865 and 1866 I had to go to market every morning, and the road was so deep that the horses sank in it and I had to send back to get more horses to haul them out. That happened not once but several times. Then I had to cut through my place and to take another road.

Question. What is the condition of the road now? Is there twenty-four feet of it in width of stone or gravel?—Answer. There is no stone on it; there is a little gravel on it in some places.

Q. How about two teams passing on the road?—A. Two buggies may pass, but not two hay wagons. I have had many a time to wait behind a hay wagon until we got to the toll-gate before I could pass.

Q. How is the road for hauling heavy loads?—A. Very bad.

By Mr. STONE:

Q. What is its condition now?—A. Tolerably fair. There are some few holes in it, but not many, because we have had no bad spells of weather this season.

Q. How was it last spring?—A. It was tolerable, too. During the time that the road was so bad there was no toll collected, but we who commuted had already paid our tolls for the year. I paid $30 a year.

GEORGE LAUER sworn and examined.

To Mr. MUZZY:

I live on the Bladensburg turnpike road, a little the other side of the Half-Way House, about a mile from the toll-gate. In 1866 there was a part of the road that wagons could not get through. I saw two or three hay wagons lying in it that could

not get out, they never found bottom in it. I never saw the road right, except in the summer, when all roads are good. I measured it the other evening and found it about eighteen feet in some places from one gutter to another. There are some gulleys on the road where, if a wagon were upset, it would be thrown into a ditch six or seven feet deep. There is a big gulley on one side and a small gulley on the other. It is the same way at the Half-Way House. If there are hay wagons on the road, you cannot pass them in some places.

By Mr. STONE:

Question. You say the road has been bad more or less every winter?—Answer. Every time that it gets wet it is bad. Even this morning it is beginning to break up, and if we have one or two days' rain it will be bad again. Even a week's rain during the summer makes it bad and spongy.

WASHINGTON DICKSON sworn and examined.

To Mr. MUZZY:

I live on the line of the Bladensburg turnpike. I lost a horse on that road in 1866. I started from home one morning with a light load, and the horse sank up to the knees in the mud. I took her out of the wagon and got some folks to help me draw the wagon out. I put her in the wagon again and got a little way further, and there again had to take her out. When I got as far as the toll-gate I then had a good road and got safe to market; but when I got back again as far as the blacksmith shop on the turnpike road, I had to take her out of the wagon; she gave out entirely. I started to take her home, but she could not get home, and died that day. I bought her from Mr. Dunn. I gave $65 for her, but would not have taken $100 for her. She was in good condition when I started with her that morning. I live about a mile and a half from the toll-gate, and about half a mile from the road. It is a tolerably good mud road from the turnpike to my house.

C. E. CREECY sworn and examined.

To Mr. MUZZY:

I have to pass Mr. Peter's place to get to my own place. On that portion of the turnpike road there is nothing at all but dirt. Passing there with a horse and carriage I broke down in the middle of the road. I broke the traces and part of the carriage, which cost me four dollars to have repaired. The mud was up to the axles of the carriage. That was last April or May. That was just before you reach the boundary line. I do not think that any stone or gravel has been put on the road, to my recollection.

By Mr. TEMPLE:

Question. Do I understand you to say that there is nothing but mud from Mr. Peter's gate to the end of the road?—Answer. No, sir; I say that as to about a hundred yards of the road. A portion of it has been graveled since then.

Q. Have you ever measured the road?—A. I stepped it over; and in some places it is not more than eighteen or nineteen feet in width; and there are deep gulleys on either side, which, if a horse ran away, or if a buggy were upset into, would endanger life. There is no barrier or fence protecting the road from these gulleys. On the left-hand side, going from the city, and not a quarter of a mile from the boundary line, one of the gulleys is eight or ten feet deep, and the gulley on the other side of the road is about five or six feet.

By Mr. MUZZY:

Q. Is the road twenty-four feet in width, of stone, gravel, or other hard substance, through the entire length of the road?—A. No, sir.

Q. Has it been since you knew it?—A. No, sir.

Q. How long have you traveled over that road?—A. Ten years.

By Mr. MCKENZIE:

Q. How long has it been leased to the toll-gate keeper?—A. I have heard it stated by persons who conversed with Mr. Benson, that he leased it before the war, and still continues to lease it. It is the general belief that they charged toll to all the Army wagons.

Mr. Muzzy put in evidence the following certificate from the clerk of the supreme court of the District of Columbia, which court succeeded in 1863 to the duties and powers of the circuit court of the District of Columbia:

SUPREME COURT OF THE DISTRICT OF COLUMBIA,
Clerk's Office, January 16, 1871.

I hereby certify that I have been clerk of this court since March, 1863.
And I further certify that during the time I have been clerk as aforesaid, the presi-

dent, directors, and company of the Columbia turnpike roads have not annually made returns to this court of the amount of the tolls collected by them and of their necessary expenses, nor have they made any such returns at any time since I have been clerk as aforesaid.

Given under my hand and the seal of this court, at Washington City, D. C., this 16th day of January, A. D. 1871.

[SEAL.] R. J. MEIGS, *Clerk.*

C. M. ALEXANDER recalled.

By Mr. MUZZY:

Question. State whether there is any portion of the road difficult to travel in summer by reason of sand?—Answer. There is a portion of the road bordering on Mr. Peter's farm, which is a deep sandy road, where the sand is sometimes five or six inches deep. It is always difficult for a heavy team to pass over it. This piece extends for two or three hundred yards. I think there is no gravel on it. If there has been any gravel put there it must have been a little put in the center; but I do not think there is any gravel there. It is a heavy sand road, such as they have in many parts of Maryland.

Q. How long have you noticed it in that way?—A. For the last five or six years—since I have been traveling over the road.

C. E. CREECY recalled.

By Mr. MUZZY:

Question. You have heard what Mr. Alexander has stated about a portion of this road being covered with sand. State what you know on that point?—Answer. That portion of the road lies between Mr. Rives's and Mr. Clark Mills's, and borders on Mr. Peter's farm. In the summer time it is the worst part of the whole road. It is tolerably good in the winter time. That sandy portion covers, I should think, one hundred and fifty or two hundred yards. The sand there is generally three or four inches deep. It is not covered with gravel or stone.

Q. How long has it been in that condition?—A. Ever since I have been traveling over it. I have never known it to be different. That is eight or nine years. I think they have got a little gravel now on the sandy portion.

WILLIAM FORSYTH sworn and examined.

To Mr. CREECY:

I am a surveyor by profession. I have made this survey now presented to me. I went out there by special request and made that little sketch of the road. It is a true sketch of the road.

(The sketch was put in evidence.)

To Mr. STONE:

The width of the road at the toll-gate, from fence to fence, is fifty-two and a half feet, I think.

Question. What is the width of the gate?—Answer. Sixteen and a half feet. That space of sixteen and a half feet extends some twenty feet or so from the gate.

By Mr. CREECY:

Q. Did you measure the road a short distance above the gate?—A. I examined the whole road some time ago, but did not make a survey.

Q. What is the width of the road, fifty yards up from the toll-gate, leaving out the gulleys?—A. I am not able to say exactly.

Q. What is the condition of the road generally?—A. Especially from the city boundary to Mount Olivet cemetery it is very bad. In winter time, particularly, it is almost impassable.

Q. Have you ever seen wagons or vehicles stalled there?—A. I have had my own carriage stalled there.

Q. Did you pay toll as you passed through?—A. I generally went out there on funeral excursions, and, of course, toll was charged.

Q. Have you ever seen a funeral stalled there?—A. I have seen hacks mired there very badly.

Q. Is that the largest Catholic cemetery in the district?—A. It is the only one I know of. I laid it out.

By Mr. TEMPLE:

Q. Are funeral processions charged toll for each carriage?—A. I am unable to say. I have passed through from time to time myself and have had to pay toll. I understand that there is an arrangement with the company about funerals.

WASHINGTON, D. C., *January* 18, 1871.

THOMAS M. BENSON sworn and examined.

To Mr. TEMPLE:

I have heard no complaints made in reference to the condition of the Bladensburg turnpike road. All that I have ever heard about it for the last two years has been from Colonel Rives. I had asked him, if he saw anything wrong with the road, to report to me; and at times he would tell me that at such and such places the road was out of order. At the time the colored man lost his horse the road was in as good condition as I ever saw it in; but the horse was actually worn out for the want of something to eat, and he naturally fell down and died. I was instructed by the president of the road to keep an account of the entire amount received for tolls. I kept the account and furnished it to Dr. Gunton. I hire the road from the company by the month. I have hired it for the last six or seven years. Up to about three years since I did the repairs myself; since then they are done by the company. I pay the company $85 a month for the road. During the war I paid $130 a month, and did the repairs. Dr. Gunton gave me $500 toward one repair. Since then, when I got some gravel from Mr. Alexander, he gave me, I think, $250. The year that Dr. Gunton gave me $500 the repairs amounted, I think, to over $1,000. That was in 1865 or 1866. My contract for the road is not for any specified time. I can abandon it whenever I choose. Any trifling repairs that are necessary I attend to. If I found a culvert out of order or a hole in the road I would have it fixed. That was my agreement with the company. I have never known anybody to be injured through being thrown out of a buggy on account of the bad condition of the road. There is another road to Bladensburg known as the old mill road, which strikes Colonel Rives's place three or four hundred yards to the west. There is also another road between that and the turnpike; and there is the Benning's bridge road on the east side of the Eastern Branch. That is a very good road, a little muddy at times. The old Bladensburg road is a nearer way to the Center Market from Colonel Rives's place than the turnpike road. The other is a nearer way to Capitol Hill. There are only nine residences between the railroad and the turnpike. The rates of toll are three cents a horse and three cents a vehicle; but sometimes I only charge people going in and out with a buggy ten cents. The toll-gate is thirty or forty yards from the city boundary line. There is very little travel on the road now, there are so many other roads leading to Bladensburg. If these roads are good people take them so as to save the toll; but if they are bad they come by the turnpike. I have always found the turnpike road better than any of the county roads. The turnpike company has an arrangement with the cemetery company by which only fifty cents is charged for a funeral, no matter what the number of carriages may be. The only difficulty in passing funerals has been at the cemetery gate, where hackmen sometimes block up the road with hacks four or five abreast. When I was a policeman I would go there and make them clear the road; but there is no difficulty along the road. I never heard of any. During the war fifty wagons have gone past in a train, two abreast. The width of the gate is something like sixteen feet. I built it myself, for my own convenience and that of the public. There has been no difficulty or trouble about it, and no one has ever said to me that it was in the way.

Q. Has the company shown any disposition to spend money beyond the limits of the road?—A. Yes, sir; I spent for the company a little over $700 about a mile beyond, out in the county of Prince George. I did that at one time in grading the road, hauling gravel and graveling the road, and cutting down hills. That was in 1866 or 1867. I have since then spent about $90 on a bridge beyond the limit of our road.

By Mr. DAVIDGE:

Question. What were the terms on which you rented the road?—Answer. I was to keep the road in repair, and was to pay $130 a month. When a thorough repair was necessary the company had to attend to it. I was answerable for the ordinary wear and tear of the road. Any extraordinary repairs were to be made by the company. I worked under that contract for three or four years. After the war ceased the toll fell off so that I went to Dr. Gunton and said that I could not afford to pay that price. Then it was reduced to $85, and the company was to do the repairs, except some trifling matters which I would attend to. That new arrangement was made, I think about 1868, and I have been working under it till the present time.

By Mr. TEMPLE:

Question. It is provided in the charter that just and true accounts shall be kept at the toll-gate; did Dr. Gunton explain to you the necessity of keeping the books?—Answer.—Yes.

Q. Did you do it?—A. To the best of my ability.

By Mr. MUZZY:

Question. How much money have you expended last year in repairs on the line of road?—A. I cannot tell.

Q. How many hands were employed on the road during that time?—A. I never kept an acount.

Q. What were the receipts of the road last year?—A. I cannot tell.

Q. How long is the road?—A. It is called three miles.

Q. Is that road, throughout its entire length, graveled for twenty-four feet wide, with gravel or covered with stone?—A. I cannot answer that question. I never took my pick along to try it. As to the gulleys, I went into the ditch the other day and my head was level with the road, and I thought that the depth of the ditch was about my height. There was one place where I could not see the road without stepping up a little. I should judge it to be about seven feet in the deepest part—allowing for the depth of the water. On the other side of the road I measured it with a tape-line, and three feet was the deepest place.

JAMES G. NAYLOR sworn and examined.

To Mr. TEMPLE:

I have been passing on the Bladensburg turnpike road for twenty-five or twenty-seven years. I have been frequently sent by the president of the road to look into its condition. I always thought that the road was as good as any road I traveled on—better than any of the country roads. I traveled the turnpike road from Georgetown to Rockville That road is macadamized, but it is a better road than it. I always hunted for this road when I went out for a pleasure drive. I would rather go on it than on any other road I can get, even in the city. It is better to-day than H street is, from the printing office to the toll-gate, and it is less dangerous. There was a hole on H Street bridge the night before last, which was very dangerous. Sometimes in the spring, when the frost is coming out of the ground, this road would be muddy, but I have always found the road tolerably good throughout its entire length. I do not live on the road, but have always traveled it a good deal. I live in Washington. Dr. Gunton has sent me frequently to look at the road. Twenty or thirty times would not excuse it. I have never had any difficulty in passing over it anywhere. Once during the war it was pretty muddy, but it was the same all over the city. It was muddy almost everywhere that the Army travel was. I had not been over the road for the last two months till the other evening, when I went up as far as the cemetery. It was a very good road then, I thought.

Question. Is there any difficulty in two vehicles passing each other?—Answer. I was sitting in my buggy the other evening at the toll-gate, talking to the keeper; my buggy was a little diagonal, too, three feet from the one side; a hack came up, I suppose at the rate of six miles an hour; when it got close to me I felt a little scared, but it went by and never touched my buggy or the other side. I think the toll-gate is about 16 feet wide.

By Mr. MUZZY:

Q. Do you know whether that road, throughout its entire length, is sixty-six feet wide?—A. I do not know.

Q. Do you know whether, throughout its entire length, there is twenty-four feet of artificial road, of stone, gravel, or other hard substance?—A. I cannot answer that question as knowing it.

Q. Do you know whether it is of stone, gravel, or other hard substance, of sufficient depth or thickness to secure a firm, hard road, with surface as smooth as the materials will admit?—A. I cannot answer that question. All the examination I ever made of the road was from general observation.

Q. You know nothing of the dimensions of the road, nor whether the company has complied with the requirements of the charter in adhering to those dimensions?—A. I do not know anything about it.

PATRICK CROWLEY sworn and examined.

By Mr. TEMPLE:

I have known the Bladensburg turnpike road since 1811. I was at the making of it when I was a boy. Whenever I went over it I always found it in good condition, except in the spring, when you will find ruts cut in it as in all turnpikes. I always found it better than half the turnpikes, and better than our own streets in the city. I have been a contractor of turnpikes and railroads for forty years. I was on the Bladensburg turnpike on the 8th of December last. It was then what we call first-rate. It was in good traveling order. I did not see a rut in the whole of it. I cannot see why our friends are making so much fuss about this pike, if they look at our own streets.

By Mr. MUZZY:

Q. Was this turnpike laid out on the old county road?—A. Part of it was. From the toll-gate to the cemetery it was all new. The old road was about 200 feet to the left of it.

Q. Is the road sixty-six feet in width throughout its entire length?—A. I did not measure it.

Q. Is there twenty-four feet of artificial road, made of gravel, stone, or other hard substance?—A. I consider it so.

Q. How deep is the gravel?—A. I do not know.

Q. Do you know whether any part of that road has sand on it?—A. Yes, sir; at Calvert's hog-pen there is nothing but sand; but I think that part is graveled.

A. I believe you have been a contractor for building roads?—A. Yes.

A. In building a turnpike what depth of gravel or stone do you put on the road to make it in first-rate order?—A. On a macadamized road we put twelve inches on the center, and ten in the sides, twelve feet wide. Then we have on one side a summer road and in some places two.

Q. You were contractor for building a road in Montgomery County some time ago?—A. Yes, sir; to Brookville.

Q. What is the cost per mile of building it?—A. Two thousand five hundred dollars a mile. It is twenty-four feet wide. The macadamized part is twelve feet wide, the gravel being twelve inches in the center and nine on the sides.

Q. What is your idea about the proper depth of gravel or stone on a pike twenty-four feet wide, which is to be covered with stone or gravel?—A. I should think about twelve inches in the center.

Q. Is this Bladensburg road that depth?—A. I do not know that. I only spoke of how solid the road was when I traveled over it on the 8th of December.

Q. Was there any road in the county, then, which you could not travel over nicely?—A. Yes; there was a turnpike out on Seventh street, part of which I could not travel over.

By Mr. TEMPLE:

Q. You say that the Brookville road cost $2,500 a mile Was that for the grading?—A.—For the grading, stone, and all. Some of it cost $3,500 a mile. Some of it was sub-let at $1,800.

By Mr. MUZZY:

Q. Have you not contracted to build a road up there this year for $2,500 a mile?—A. Yes.

Q. Have you sub-let for less than that?—A. Yes, sir; I sub-let it for $1,800. That road is twenty-four feet wide, with twelve inches on the center and ten on the side of macadamized road, and one good summer road.

JOSEPH J. MORGAN sworn and examined.

To Mr. TEMPLE:

I am a member of the police force. I have passed over the Bladensburg turnpike daily since I was a boy. Its condition has generally been good, except in the spring, at the breaking up after a hard freeze. I have seen it, then, sometimes very muddy. A colored man lost a mule on the road last summer, but it died from disease, I believe. I did not see it. There was no mud there at that time. In 1863 there were holes in the road after a freeze, and during cloudy, wet weather. I think there were places where there were some teams stalled. I have not heard any complaints during the last two years of the condition of the road. I heard some of the folks complain of its being a toll road.

By Mr. MUZZY:

Q. Does not the condition of the road depend on the weather—good in good weather and bad in bad weather?—A. Certainly; that is so with all roads.

Q. Have you never seen a turnpike which did not get muddy in bad weather?—A. No, sir; I did not.

Q. Is that road 66 feet in width throughout its entire length?—A. I cannot answer that question.

Q. Is it an artificial road 24 feet in width throughout its entire length, made of stone, gravel, or other hard substance?—A. I judge that in some places it is less than 24 feet, but I guess that much of it is more than 24 feet. The road has been graveled and re-graveled, and the gravel has worn out. On the top of it the gravel does not show, but there may be gravel there if you dig down.

Q. Is there any sand on the road?—A. There is in places. Where Mr. Peters's farm is there is sand. The road was rounded up last summer, and sand put on the top. That is the only piece of the road that does not show gravel.

Q. Have you ever measured that road?—A. I heard I was going to be summoned, and I measured some places yesterday with a stick. The least width of where I measured, where it is safe for persons to travel, is about 22 feet.

Q. Then I understand you that in many places the road is but 22 feet wide?—A. In one place.

Q. How far does that extend?—A. A small piece—about four feet.

Q. Did you ever know a funeral to be stalled on that road, going to the cemetery?—A. No, sir.

Q. How long has that road been on your beat?—A. For the last seven or eight years.

Q. At what point was it that you found the road to be only 22 feet?—A. About one hundred and fifty or two hundred yards above the gate. That is a slip. There is a running stream there, and in time of rain a great deal of water comes down, which has washed quite a ditch there. These places were fixed up last summer, but there came rain again, and caused them to slip again. I never heard of any one being injured by being thrown out of a buggy on account of the bad condition of the road.

CHARLES C. IVEY sworn and examined.

To Mr. Temple:

I passed over the Bladensburg turnpike last Sunday. I went out to Bladensburg and back. The general condition of the road, I thought, was very good—much better than some of the streets in the city that I passed over in going to the toll-gate, especially G and H streets.

Q. Were there any ruts in the road twelve inches deep?—A. No, sir. Near Clark Mills's place, going up the hill toward Colonel Rives's, was the worst place that I saw; but it is because people do not drive on the gravel, but on the side of the road. There has been gravel put there recently, and instead of driving on the gravel people take to the sand on each side. I cannot say what depth of gravel is there. There is a good deal; but last Sunday was a very muddy day.

To Mr. MUZZY:

I do not live on the line of road, but I frequently drive over it. The width of the place where the gravel was freshly put on was, I should say, 15 feet.

Q. Do you know whether that road, throughout its entire length, is 66 feet in width, from fence to fence?—A. I should think it was, but I am not a judge of distances.

Q. Do you know whether it is an artificial road, 24 feet in width, made of gravel, stone, or other hard substance?—A. I cannot say as to that. I can testify as to the general condition of the road. The road is very hard and firm. I could not trot my horse last Sunday on a portion of H street, but I could trot him along on the toll-road first-rate. The general condition of the road is much better than H street, especially that part from the toll-gate to the cemetery. It is in very hard and good condition.

Mr. Davidge put in evidence the account of tolls and of expenditures on the road.

WASHINGTON, D. C., *January* 23, 1871.

Mr. Muzzy called the attention of the committee to the act of February 15, 1819, page 482, 3 Statutes at Large, authorizing the extension of the road of the Washington and Rockville Turnpike Company in Maryland into the District of Columbia, upon the Columbia Turnpike Road Company surrendering the right to build the road, and providing that the act in relation to the width of road, &c., of the Columbia turnpike road, passed in 1810, should be in force, and should apply to that road. This act required the road to be 66 feet in width, &c.

H. W. BREWER, sworn and examined.

To Mr. MUZZY:

I reside in Georgetown, and am a civil engineer. I have examined the Washington and Rockville turnpike road, and hand in a plat of that road. I made the examination in connection with Mr. Forsyth, some time in December, 1870. The following is a correct copy of the statement made about it:

GEORGETOWN, D. C., *December* 11, 1870.

SIR: In company with you, I have examined into the condition of the Seventh street road, from Boundary street to the Maryland line. The following is the result, taken from notes and measurements made on the spot:

From Boundary street to station No. 2, on the accompanying sketch, road-bed uneven and in ruts, but foundation solid. Bridge between these points in good order. From No. 2 to No. 5, (toll-gate,) good gravel road. From No. 5 to No. 6, road-bed clay and sand. The culvert at No. 6 not in very good order; north wall bulges, and no protections on sides. From No. 6 to No. 7, loose sand and flat in the middle; road not in order for travel. From No. 7 to No. 8, road has been newly macadamized, and is very rough. From No. 8 to No. 9, road of loose sand, and in bad condition; culvert at 9 has good covering but is washed at bottom and upper end, and has no protection for travel. From No. 9 to No. 10, road in very bad condition. From No. 10 to No. 11, the road is macadamized, but it is in such a condition that the road would be benefited by its removal.

The bridge at No. 11 is built upon foundation walls three feet high, with plank sides about twelve feet in height. The railing is in dangerous condition. From the northern end, for the distance of two hundred and forty feet, there is a high embankment entirely unprotected, and is very dangerous to night travel. From No. 12 to No. 13, the road is macadamized, and is in fair order. From No. 13 to No. 14, the road is of sand, with patches of macadamizing, loose stones, &c. From No. 14 to No. 16, the road is from twelve to fifteen feet in width, and is fairly graveled. From No. 16 to No. 17, deep sand. From No. 17 to No. 18, macadamized, but much worn. From No. 18 to No. 19, road commences with four feet of macadamizing and ends with ten feet; the whole is in bad condition. From No. 19 to No. 20, sand, with patches of macadamizing. From No. 20 to No. 21, road in fair order, and about fifteen feet wide. From No. 21 to No. 22: About one-half of this portion of the road has well-worn macadamizing: the balance is in better order, and about fifteen feet wide. From No. 22 to No. 23: One thousand and twenty feet of this portion of the road is macadamized, and is in good order; the balance is in bad condition.

In reviewing these notes, there can be no hesitancy in answering the questions propounded to you by the attorneys of the levy court as follows:

1st. The road is not made throughout its entire length twenty-four feet wide of "stone or gravel, or other hard substance, of sufficient depth and thickness to secure solid and firm road."

2d. The surface of the road is not as "smooth as the material will admit."

3d. The road in no case rises or falls so as to make an angle of 4° with the horizontal line.

4th. The road is not in "good and perfect repair."

5th. The bridges are not built of "sound and suitable material."

You will find accompanying this, a sketch of the road enlarged from Boschke's map of the District.

Respectfully yours, &c.,

H. W. BREWER, *Civil Engineer.*

WILLIAM FORSYTH, *Civil Engineer.*

By Mr. STONE:

Q. State the length of each section of the road.—A. The length from the starting-point to No. 1 is 1,634 feet; between No. 1 and No. 2, 1,366 feet; from No. 2 to No. 3, 1,220 feet; from No. 3 to No. 4, 1,780 feet; from No. 4 to No. 5, 1,600 feet; from No. 5 to No. 6, 1,453 feet; from No. 6 to No. 7, 1,597 feet; from No. 7 to No. 8, 350 feet; from No. 8 to No. 9, 809 feet; from No. 9 to No. 10, 187 feet; from No. 10 to No. 11, 679 feet; from No. 11 to No. 12, 1,419 feet; from No. 12 to No. 13, 325 feet; from No. 13 to No. 14, 200 feet; from No. 14 to No. 15, 800 feet; from No. 15 to No. 16, 600 feet; from No. 16 to No. 17, 600 feet; from No. 17 to No. 18, 430 feet; from No. 18 to No. 19, 1,270 feet; from No. 19 to No. 20, 1,127; from No. 20 to No. 21, 1,773 feet; from No. 21 to No. 22, 700 feet, and from No. 22 to the end, 2,900 feet.

By Mr. MUZZY:

Q. What is the entire length of the road within the District?—A. 25,300 feet.

Q. What is the length from the city limit to the first toll-gate?—A. 7,600 feet.

Q. Is it your judgment that the road, including that part of it which is macadamized and graveled, is 66 feet in width throughout?—A. I did not measure it, but I should judge it is about 60 feet. I suppose the width is all right.

Q. Are you confident that the road is not, throughout its entire length, 24 feet in width, of stone, gravel, or other hard substance?—A. I am perfectly sure of it.

By Mr. WILLIAMS:

Q. What is the average width of the macadamized part of the road?—A. Some places it is only 8 feet, and in some places 5. I do not think that in any place it is over 20.

Q. Would it average half the width of 24 feet?—A. I hardly think it would.

Q. Is there any part of it graveled right, in your judgment?—A. Not a good graveled road. It has had some gravel upon it. In some places the road-bed is very good, but it is rather flat, I think—not crowned. The greater portion of it is sandy, and rather deep sand at that.

[The plat of the road was put in evidence, as follows:]

(For plat of road see original manuscript.)

CHARLES H. BLISS sworn.

To Mr. MUZZY:

I am a civil engineer; I am acquainted with the road known as the Seventh street turnpike; I have traveled it more or less within the last ten years.

Question. You have heard the requirements of the charter stated by me as to the

width of the road; that it was to be 24 feet, of gravel, stone, or other hard substance throughout its entire length. Is it your judgment that that has been complied with?—Answer. No, sir; not by any means.

Q. What is the condition of the road?—A. In muddy times the road is very bad. I recollect, some nine years ago, getting stalled there with a pair of horses and carriage. Since then I have been over the road a great many times. On another occasion, when I had my own team hauling a wagon, the road was so bad in one sandy place that I had to get out and walk the hills, and in many places it is dangerous to attempt to get from the side on to the stone in the center of the road. I consider it a dangerous road to travel over. I was very much surprised that such a road should be called a pike. The bridges are dangerous; I consider them so. The last time I went over that road, last fall, I came back by the other road from Brightwood, in preference to coming back over it. There is no railing for protection on the bridges.

Q. Between Howard University and the city are there any high banks?—A. Yes; there are several places that I consider dangerous.

Q. Can two carriages pass over the bridges together?—A. I think that perhaps they could on some of the bridges. I always hurry over the bridge, so as not to meet any other team on the bridge. I do not think that a carriage and a load of hay could pass each other on the bridges: it seems to me very doubtful. I have been city surveyor of Washington for two years past, and have had twenty years' experience of building roads and canals. I never saw such a turnpike; I would not call it a turnpike; it is not worthy of being called a common country road. You may travel over any country road in Maryland and be safer than traveling over that road.

Q. What amount of gravel or stone do you think necessary for a road 24 feet in width?—A. It should be at least 18 inches of gravel in the center and 9 on the sides.

By Mr. STONE:

Q. What would be the cost per mile of building such a turnpike?—A. I should think you could not build a good turnpike road, such as I speak of, short of from $3,000 to $5,000 a mile, to put up suitable bridges and everything else.

Q. Would that include the purchase of the land?—A. No, sir; simply for building the road.

Q. What do you suppose a road like this one could be built for?—A. I should not think that this road would cost half as much, or perhaps more than one-third, but that is merely a rough guess.

FRANCIS MILLER sworn and examined.

To Mr. MUZZY:

I am an attorney-at-law; I reside in Montgomery County, Maryland; I am familiar with the road known as the Seventh-street pike, and have been for twenty-five years. Within the past twelve years I have resided in Maryland, and have been very familiar with that road. I walked over the road last Saturday, with a view to examining its condition.

Question. State the result of your observation that day.—Answer. The result of my observation is entirely confirmatory of the report of Mr. Brewer. I made some rough notes, as I went along; but it is hardly necessary to encumber the record with it, because I agree precisely with Mr. Brewer. There are two large culverts and two bridges on the road, on either side of which it would be very dangerous for a carriage to go over. The culverts have no protection, no side railing at all. One of the bridges has partly a railing, but it is just in that condition that a child could push it down without the least difficulty. If a drunken man staggered against it, he would fall over and carry the railing with him. The first bridge has underneath it a partly stone wall. On that there are some upright posts, and across those is nailed some plank, and the earth rests against that plank. The approach on either side for forty or fifty yards is only from 14 to 16 feet wide, and quite precipitous, so that if two wagons were to meet there they would have difficulty in passing. It is entirely impossible for a carriage to pass a load of hay there. The bridge is about 14 feet wide, (I give the measurements as I stepped them,) and the railing is in the condition in which I have stated it. At the other bridge, which is further out, beyond the second toll-gate, there is no railing on one side, and on the other side there is a railing which consists of upright posts that are nailed on. The middle ones rest on the flat part of the bridge, and then they are toe-nailed. The others run down the side and are spiked to the side of the bridge. There is nothing buried in the ground at all. The rail is held entirely by these nails. The boards along the side and across the top have been nailed at times, and one end or other is frequently nailed now, but there is hardly ever a case when the board is nailed on both ends. The width is like the other bridge, and the approaches are quite precipitous. The whole surface of the road is flat. I do not think there is an instance in which there is 24 feet of rounded road along the whole distance. Sometimes the road is 24 feet wide, but when it is that width it is in little holes, so that if there is any

rain the water settles in them, and wagons go through the ground. I suppose that on Saturday, when I was on the road, there were fifteen or twenty mud holes in the road, some of them extending half-way across the road, some one-third of the way, and some smaller ones. I do not think there are a hundred yards of road consecutively that answer the conditions in the charter. There are some cases, mentioned by Mr. Brewer in his report, where the road is very sandy, particularly at Mayor Emory's place, near to Fort Stevens. There were ruts in the sand on Saturday at least six inches deep. If the sand went down to the center of the earth, wagons would not cut in any more than they do now. I have been on the road in the early spring and in the winter, and have often seen wagons cut in nearly to the hub. I do not know personally of instances in which they have gone quite down to the hub, but I have heard report of them. We have, in Montgomery County, a turnpike running to the end of this road from the village of Brookville, which is a macadamized road, and we can take there a load with three horses and bring it down to the District line, which will take five horses to bring to the city on this turnpike road. That is the experience of all our farmers. They have to nearly double their force on this road; they cannot haul more than half what they can on a good road. I speak of the road in the spring, when it is in its worst condition. For the past four or five months there has been scarcely any rain, the snow that we had a week or two ago is nearly the whole amount that has fallen during four or five months, and of course the ground is dry; but usually, in the spring, when the frosts get out of the ground, there is no limit to the depth into which wagons get on this road. There is nothing to keep them from going down to the hub. This road was built on a charter from the State of Maryland, chartering the Washington and Rockville Turnpike Company. That company was authorized by Congress to build this road from Washington to the Maryland line. I have made inquiries from every one likely to know anything about it, and I have not heard of any one who ever knew that that road was completed; I mean the road from the District line to Rockville. This charter was obtained on the pretense that they were going to build a turnpike from the city of Washington to Rockville. They have undertaken to build it out to the District line, and are collecting toll on it. The Brookville road from the city limit is on an entirely different charter; that was built, I think, from 1854 to 1856. In the twenty-five years that I have known the road, there never has been a toll-gate there, and there has not been any pretense to have control over that road by any corporate company from the District line up four miles. At the village of Leesburg the road goes to the left to go over Rock Creek, but there is not even a tradition that speaks of the existence of this road.

By Mr. STONE:

Q. This turnpike, so built, goes to Brookville, and not to Rockville?—A. To Brookville. It is on the road to Rockville for four miles, but it is under an entirely different charter and company.

Q. So that there is no turnpike road now leading from the District limits to Rockville?—A. Not only that; but I do not believe that a good load of any kind of materials could get by that way to Rockville. There has been no turnpike there. That company and two other companies depend entirely upon this Seventh-street road to get to the city. There are two other turnpikes that empty into the Brookville pike. This Brookville pike, with the Sandy Spring branch, is 18 miles long, and there are two turnpikes in course of construction that will be 21 miles long, making altogether 38 or 39 miles of turnpikes, which the citizens of Montgomery County have built in order to get to the city of Washington; but when they get to the District line, they are turned into a slough of despond, and find all their labor lost.

WASHINGTON, D. C., *January* 24, 1871.

C. E. CREECY sworn and examined.

To Mr. MUZZY:

I am familiar with the Seventh-street turnpike. I have been familiar with it 8 or 9 years. I have been over it frequently within the last 4 or 5 years. There are two toll-gates on it within the District line. The condition of the road is bad. I was over it last Saturday, and found it in some places very bad. There are some places where it is not macadamized. I cannot call to mind particularly the spots. I noticed that the road is not more than 18 feet wide near a bridge there, and that it is a very dangerous place. In the early spring and the latter part of winter the road is very bad, muddy, and rutty. Ten or twelve years ago they called it the Seventh-street plank road, but I never knew why, except that there were some few planks in some places. I have paid toll on the road whenever I went through the gate. The farmers along the road complain of the road being bad, and they all want the toll abolished. There is a great deal of travel over the road. I counted upward of 20 wagons—what they call Virginia market wagons—coming down the road. It strikes me that if all that pass pay toll, they must have a good revenue. I have not noticed any recent repairs on the road.

I should not suppose that there have been any repairs put on for a year or two. There is a bridge about half-way between the first toll-gate and Brightwood, which is very dangerous. I recollect driving over it once with a fractious horse and I came nearly going over the side of it. I would hardly have escaped with my life if I had. The railing was partially down at that time. There is a railing now to it, but the bridge is only about 20 or 30 feet long, and on each side of it there are dangerous gulleys—on a sort of causeway leading to it.

WASHINGTON, D. C., *January* 30, 1871.

J. T. HALL sworn and examined.

To Mr. STONE:

I reside in the county of Washington. I am well acquainted with the Seventh-street turnpike road. I have known it for two and a half years pretty thoroughly I have driven over it for the last eight years, off and on. Its condition has been very good on an average; much better than the roads running parallel with it. It has a solid road-bed. It seems to have a bottom solidly packed as a road that has been traveled over for a number of years.

Question. What is its width?—Answer. In my opinion the average width would be more than 24 feet. There are some places where the top road would not be quite 24 feet, but the road-bed is much more than that. There is no part of the road that I have seen where three wagons cannot pass.

Q. Are the bridges all in good repair?—A. They were when I last saw them, last fall. I have not been over the road, all the way, since then. They were all in good order then. I was over the whole road last fall, from the county line to Washington, and I examined it thoroughly.

Q. That part of it which you drove over this morning, was it in good order?—A. I cannot say, as it is covered with snow. We did not go through, however. The road was solid and even. That was from the toll-gate to the city.

To Mr. MUZZY:

I measured the road last summer; I have not measured it since.

Q. Was it throughout its entire length an artificial road 24 feet wide, of stone or gravel?—A. I do not like to say. There may be some places where the road was washed and would not be 24 feet wide, but in my opinion the average is 30 feet. The road in my opinion is much wider than any of the other county roads, but in some places they have given the grade of the road considerable dip, so as to make it solid, in passing through any cut or gully, but the top of the road there is 24 feet, easily. Most of the road is a good drive.

By Mr. STONE:

Q. Does the gravel or stone extend 24 feet in width?—A. Yes, sir.

Q. How deep is the gravel?—A. I do not know. It must be 9 inches deep, for if not, the heavy teams that come in from Montgomery County, loaded with corn and hay, would go right through it. It is used as one of the arteries of Montgomery County. Every morning 8 or 9 or 10 teams pass our house loaded with grain, and if it was not the best road in the county they would not take it, because the Fourteenth-street road taps it up above, where the teams would not have to pay toll.

Q. Does the Fourteenth-street road tap it within the District line?—A. Yes, sir; within the District line.

Q. What sort of a road is the Fourteenth-street road?—A. It is quite a good road. My teams are going over it every day to the city, from a place called Piney Branch. The majority of the farmers from Montgomery County take the Seventh-street toll-road, in preference to the Fourteenth-street road. The reason I know so much about the Seventh-street road is, that I went over it and examined it thoroughly. I offered to take it from the company, and I certainly would not take a broken-up road.

Q. How much work have you seen done on the Seventh-street road during the past year?—A. During the past year, from August last, I was sick in bed; but in the spring I saw a number of teams and men at work on Howard's Hill. I also noticed, before the snow came, a number of patches in the middle of the road, where gravel had been hauled; so that there must have been some work done.

Q. Have you examined the condition of the bridge at Marshal Brown's?—A. I have not seen the bridges for a year.

Q. Do you know the width of the road at either of the bridges, or at the approaches?—A. I do not. The approaches would be about the width of the bridges, and my impression is that the bridges are 15 feet wide, that is, wide enough for three wagons to pass.

Q. Three hay wagons?—A. No, I will not say that; a vehicle could hardly pass one hay wagon. I know that the bridges were all washed away about three years ago, in a heavy freshet, and that they were all built up anew.

JOSEPH C. LEWIS sworn and examined.

By Mr. STONE:

Question. State the condition of this Seventh-street road and any particular facts you may deem pertinent to the inquiry.—Answer. I think the road is in a good condition. It is not as good a road as we would like to have made; but we have expended all the money upon it that we have been able to collect for the last five years, and we are in debt besides over a thousand dollars. The plan of the road was made by Engineer Coyle and reported to the levy court, and approved as being within the rules or within the charter in every respect. This bridge which the gentleman speaks of is as broad as any of the bridges in the county. It is as broad as the bridge over Piny Branch at the quarry, and it is a good bridge. But, then, teams are not confined to the bridge; they can go down and cross above the bridge; and that used to be the practice always, especially when they wanted to water the teams; they leave the bridge and go over above it. This embankment, that is called too narrow, is probably at its base forty feet wide; but the embankment is high, and probably the road at the top is not so wide as is desirable; but there is no difficulty in passing two teams over it abreast at any time. If the Government will pay us what it owes us, we will expend it all on the road, or we will give up the road, if the Government says so. The Government owes us something like $8,000, without reckoning in interest.

Q. What is that for?—A. The first year of the war we let the Government teams travel over the road without paying toll or without keeping any account; but we found that this travel was running us in debt heavily to keep up the bridges and to make them stronger, so that the Government teams could travel over the road. We then commenced keeping an account, and one account of over $8,000 was rendered to the Government, of which the Government paid us one-half. We afterward rendered another account of about $4,000, and received one-half of it; and I think there was still another account of perhaps $2,000, of which we were also paid one-half. To the best of my recollection, the Government paid us some $7,000 out of $14,000. The other half is still in abeyance, and has not been paid.

Q. What reason does the Government allege for not paying you?—A. General Meigs said, during the war, "We want to make you help to carry on the war, and we will adopt this rule of paying you one-half the tolls;" but, as we did not keep an account the first year, the Government really owes us more than we sent an account for. There can be no hardship to the citizens in paying this toll, because, if they choose, they can take the Fourteenth street road, where they have not to pay any toll. The hardship is on our side, as we have expended a good deal of money for which we get nothing. The hardship is not on the part of the community, because the road is kept up without their money, and if people do not choose to travel it, they pay nothing whatever for it. When they do choose to travel it, it is when the other roads are bad, and when this is the best road to bring down heavy teams upon. They bring down their heavy teams on this road and go back with their empty teams on the other road. This Fourteenth street road goes up to Fort Stevens, and to Fort Massachusetts, and there it crosses the road to the Maryland line, so that there is no hardship at all in collecting tolls on this road; for even the Montgomery folks can come to this city without touching our road at all. I think I am authorized by the directors of the road in saying that, if the Government will pay what it acknowledges it owes, we will make a road there such as nobody shall be ashamed of, or, if the Government will pay us what it owes us and take the road itself, and take care of it, we would agree to that. I wrote to Judge Sargent, the president of the levy court, the other day, a letter which I will hand to the committee and Judge Sargent's answer to it. The letter and answer are as follows:

WASHINGTON, *January* 28, 1871.

DEAR SIR: I wish to know if it is the wish of the present levy court that the turnpike roads should be added to the present heavy taxes, or do they wish that the road be kept in repair, as now, by those who travel it. The whole receipts have been expended upon the road for the last five years.

Yours, truly,

J. C. LEWIS, *Tax-Payer.*

Judge SARGENT,
President of Levy Court.

WASHINGTON, *January* 28, 1871.

SIR: In reply to the foregoing letter, I can only say for myself, as a member of the levy court, that I have no desire that turnpike roads in the county should become a burden to the county. We have roads enough now to keep in repair without any being added to our burden.

At the next meeting of the court, this subject will probably be considered.

Your obedient servant,

N. SARGENT.

J. C. LEWIS, Esq.

By Mr. MILLER:

Q. When was the last dividend declared on this road?—A. Five years ago.

Q. What was the amount?—A. I reckon about 3 per cent.

Q. What was the aggregate amount?—A. I am not able to say.

Q. How much money has been expended on this road during the last year?—A. Mr. Jackson and Marshal Brown were the superintendents of the road, and attended not only to the repairs of the road, but to all the outlay.

Q. Do you charge toll on this road?—A. Toll is collected on it, and I do not think there is any hardship about that, for this reason: that all who pass over the road on this side of the first toll-gate, pass over it perfectly free; and all living in the county, on the other side of the toll-gate, can use the road for ten dollars a year; and they certainly could not make the repairs themselves for twice that amount. Those who pass over it from the other county pass over the whole length of the road, and I do not know any one of them who pays more than twenty dollars a year.

Q. Do you know of any persons who refuse to pay toll?—A. I do not know of any such case now. We used to have trouble with the Blairs, but I have not heard of their making any trouble recently. All the trouble that I have heard of was with Mr. Sheppard, who had some little difficulty with the toll-gate keeper. I traveled over the road the day that he made the complaint, and a finer road I never saw; I traveled the whole distance from the boundary line to the District line. It is certainly very poor encouragement to any person to engage in a public enterprise if they are not allowed to get along peaceably.

By Mr. STONE:

Q. What is the corporate name of the turnpike that connects with this road leading into Montgomery County, and when was it built?—A. The one that is most prominent now is the Washington and Brookville road. The Maryland part of the Rockville road was built, but was not kept up, perhaps. We have no connection with that; our part of the road was within the District, and Congress legalized the District part of it.

Q. Was that road ever built from the District line to Rockville?—A. I understood that it was built, but that it has not been kept up, and that only that part of the road leading to Brookville has been kept up; that is the road now in full operation under the laws of Maryland. The Rockville road was built more than thirty years ago—as much of it as was built, and how much of it was kept up I am not able to say; I understood that this road was built entirely from the District line to Rockville. The Brookville road, as I understand it, passes on the same bed for four miles, and that is a very good road; that was built about the year 1854 or 1855.

WASHINGTON, D. C., *February* 2, 1871.

JOSEPH C. LEWIS recalled.

Witness handed to the committee the list of the stockholders of the Washington and Rockville Turnpike Road Company, as certified from the records of the supreme court of the District of Columbia, as follows:

Criminal Court—March term, 1861.

UNITED STATES *vs.* THE ROCKVILLE AND WASHINGTON TURNPIKE ROAD COMPANY.	1859, January 12. Indictment for nuisance. 1861, April 16.

Nolle prosequi by United States attorney.

Copy from the records of the late criminal court of the District of Columbia.
Test:

R. J. MEIGS,
Clerk of the Supreme Court of the District of Columbia.
By E. J. MIDDLETON,
Assistant Clerk.

January 27, 1871.

List of the stockholders of the Rockville and Washington Turnpike Road Company.

Wash. Adams	$120	W. Lenox	$30
H. Aull	50	C. Lindsley	120
S. & P. F. Bacon	300	A. Lynch	20
Bates & Bro	120	F. A. Lutz	40
B. Beall	40	J. W. Maury	480
S. C. Barney	180	C. M. Magruder	120
L. Beeler	50	T. J. Magruder	40
Joseph Borrows	50	J. C. McGuire	300
George Blagden	120	S. Munroe	60
P. Bradley	120	F. Munroe	60
J. C. Brent	260	S. Norment	40
R. Y. Brent	50	P. Otterbach	240
Brereton & Bro	120	J. D. Paine	3,440
M. Brown	120	C. G. Page	20
J. Bryan	120	G. H. Parker	240
George Burns	60	E. W. Patterson	573
C. B. Calvert	40	C. Pearson	573
Chubb Brothers	120	Perry & Bro	120
W. Clarke	120	W. G. Pearson	573
D. Clagett	1,120	E. Ray	140
J. S. Clarke	50	E. M. Randall	120
W. W. Corcoran	240	W. R. Riley	1,530
F. Coyle	120	J. A. Ruff	240
W. G. Cranch	120	D. Saunders	120
M. E. Dekrafft	90	T. P. Simpson	50
E. Dekrafft	290	R. C. Smith	120
L. Edwards	50	J. B. H. Smith	120
J. Gallegan & Son	120	C. Scott	120
Joseph Gales	10	Sweeny & O'Neale, executors	140
G. S. Gideon	300	W. H. Taylor	500
J. Gideon	120	J. T. Towers	120
J. H. Goddard	120	W. B. Todd	80
A. Green	40	J. B. Varnum	120
S. H. Hill	240	William Ward	120
J. Hellen	120	E. R. Warren	3,430
F. Howard	40	R. C. Wallach	320
A. P. Hoover	20	L. Wheeler	30
S. Hyatt	50	W. G. W. White	20
B. S. Jackson & Bro	200	W. H. Winter	300
Aug. Jay	573	C. H. Weltberger	120
J. Johnson	20	M. Worden	120
M. A. Kerr	50	V. Miller	20
Ann Kerr	50	J. A. Smith	240
H. Kerr	50	S. Storm	120
J. C. Leedis	640		
M. S. F. Lenox	40	Total	22,492

Expended for the repairs of the road from May 31, 1861, to May 31, 1870.

May 31, 1861	$390 25	May 31, 1866	$1,788 76
May 31, 1862	371 58	May 31, 1869	524 09
May 31, 1863	2,508 02	May 31, 1870	2,689 50
May 31, 1864	1,823 50		
May 31, 1865	4,411 77	Total	18,195 71
May 31, 1867	3,688 24		

No dividend declared since 1866, all of the receipts of the road having been applied to its repairs and improvement.

S. B. BOARMAN,
Secretary.

ROCKVILLE AND WASHINGTON
TURNPIKE ROAD COMPANY, *January* 30, 1871.

Witness explained that the stock of the old company was reckoned in the foregoing list at fifty cents on the dollar.

By Mr. MILLER:

Q. Did you ever know of any of the stock being sold?—A. Yes.

Q. How long since?—A. I have known it sold within the last two years.

Q. What did it sell for?—A. It rates generally at fifty cents on the dollar, but I have known it to be sold as low as twenty-five cents, within the last two years.

Q. Did you ever know it to sell for less than twenty-five cents on the dollar?—A. No, sir; I do not think I have.

Q. And there has been no dividend since 1866?—A. No.

Q. What was the dividend then?—A. Three per cent., I think.

Q. When had there been a dividend before that time?—A. We had had dividends every year for two or three years before that.

Q. State whether the amount stated in that return as being expended in 1870 was all expended in that year?—A. That is the amount of the payments in that year. It is not probable that it was all expended in that year, because we had owed bills from 1869, which we had not been able to pay. It was stated the other day that the road owed about $500 to the bank and $600 besides.

Q. Are you acquainted with any part of the road where work was done in 1870 to any extent, except at Howard's Hill?—A. A good deal of work was done opposite the Schuetzen place. It is well graveled along there. It was in bad condition before. It was flattened down, so that when it rained the water lodged there. It has been rounded up very nicely. I am frank to confess that the money has not always been as judiciously expended as it might have been; but as to the fact of its being expended, there is no question. Other gentlemen, however, differ with me, and think that they are permanently improving the road; and when it is permanently improved it will take less to keep it in repair, and will pay the shareholders something. But so far as I am concerned, I would be very glad if Congress would just pay up what the Government owes us and take the road. There is a good deal of travel on the road all the while, but the tolls are very low.

By Mr. STONE:

Q. Is not that road the main artery to the city of Washington from Montgomery County?—A. Gentlemen dispute that point with us, but I should say that it is one of the main arteries. I would not like to say that it was the main artery. I think it is also the best avenue, because it has been well chosen. The bed of the road is very solid and very well turned out; and the road is nearly a straight line.

J. J. HALL recalled.

WITNESS. At the request of Mr. Lewis, I measured the width of the road this morning between the city and the first toll-gate—the narrowest part. I found the average of the road to be 36 feet; not the road-bed itself, which is much wider. The whole 36 feet can be traveled, but not with pleasure, because there is a slight decline on each side.

By Mr. MILLER:

Q. How much of the road was graveled?—A. In my estimation, the whole of the road was graveled.

Q. Did you see any gravel there?—A. I saw the red structure of the road, and the road is hard, and therefore it must be graveled, as there is no frost there now.

Q. How was the curve?—A. Pretty flat.

Q. Was it smooth?—A. It was smooth in places. I will not say that it was like a table, but it was not a bad road.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 37.

TO PROTECT LOYAL AND PEACEABLE CITIZENS OF THE UNITED STATES.

[To accompany bill H. R. No. 3011.]

FEBRUARY 20, 1871.—Ordered to be printed and recommitted to the Committee on Reconstruction.

Mr. B. F. BUTLER, from the Committee on Reconstruction, made the following

REPORT.

The Committee on Reconstruction, to whom was referred the bill (H. R. 3011) to protect loyal and peaceable citizens of the United States in the full enjoyment of their rights, persons, liberty and property, and to enable such citizens to preserve and perpetuate the evidence of losses claimed to have been sustained by them in the war in the States lately in rebellion, have examined the bill submitted to them, and have taken into full consideration the evils and disorders which its provisions, if enacted into a law, are designed to suppress.

Your committee are fully convinced that secret organizations, overriding the laws of the States, depriving citizens of the United States of their rights of person and property, and interfering with the free exercise and enjoyment thereof, exist—under different names and designations, but all having the same object and intent—within the several States indicated in the bill, all of which were Confederate States, save only Kentucky, in which, from the rebellious and disloyal spirit shown by a large portion of the people there, seems to have as great and perhaps more need of the remedies proposed by the provisions of this bill as any other rebel State.

Your committee also believe that there are cases of oppression by individuals on the part of the land-holding people of the South against the landless, by which their wills are coerced and rights outraged, and their property taken without any possibility of redress by law. Every mail brings the most fearful accounts of burglary, arson, and murder in the night time by armed bands, prowling in disguise, especially in the States of Tennessee, North and South Carolina, Georgia, Alabama, and Texas.

Your committee need only refer to one or two as published in democratic as well as republican papers, as examples of the enormous and heinous crimes with which every mail teems. Since this bill has been under consideration before your committee, we are reliably informed that a band of five hundred armed men in disguise broke open the jail of Union County, South Carolina, took out ten prisoners, negroes, killed eight, wounded severely another, and one is yet unaccounted for; and your committee are not advised of any steps taken by the legal authorities to punish this band of marauders and murderers, or maintain and execute the laws, even such laws as there may be against them.

Now it is evident that such an amount of heinous crimes by such a number of people in a sparsely-settled district in the northwestern part of the State of South Carolina could not have been committed without the perpetrators thereof being in large part known to the community, and that therefore these murderers are either shielded and concealed by the community, or that the whole community is overawed by the combined force of the criminals; either case calling for instant redress.

Again, in the State of Texas, within the past few days, a scene occurred which is without parallel in the history of civilized nations. It seems that one Jenkins, a free colored man, had had some difficulty with a planter, upon whose estate he was a laborer. Two friends of the planter therefore most unmercifully whipped Jenkins until nearly dead, and then told him he would be killed if he went before the grand jury. In the effort of Jenkins to obtain justice he was called before the grand jury, whereupon he was followed from the court-house and murdered by four men, two of whom had assaulted him before, and his opponent, who meanwhile had wounded another man by mistake for Jenkins; whereupon the judge of the county court issued his warrant for the arrest of the four murderers. They were brought before the judge, and the local district attorney prosecuted the unprovoked murder which had been committed; whereupon threats of assassination of the judge and district attorney were freely made during the trial, if they dared hold the murderers to answer. The judge dared to do his duty, and ordered the prisoners to be committed for trial for this capital felony, of their guilt of which there was no doubt. Thereupon the prisoners, being armed by the connivance of their friends in the court-room, when they were about to be removed and committed to jail for trial by the sheriff by order of the court, commenced shooting at the sheriff, which fire he returned, wounding two of them; whereupon an indiscriminate shooting among the people in the court-house commenced, forty or fifty shots being fired in rapid succession, while a portion of the prisoners' friends stood guard with loaded revolvers to keep the officers of the law outside the court-house from interfering with a procedure which, if it were not so terrible, would seem to be a mere common pastime of the people. Numbers were wounded, one or more killed, the district attorney and judge both shot at, and one wounded before they reached their hotel, which was opposite the court-house. Twenty or thirty confederates, armed with shot-guns, with horses ready, greeted the murderers with cheers; then mounting their horses and firing their pistols, yelling like savages, the prisoners, followed by their friends, made good their escape from town.

The force under the sheriff was not sufficient to pursue or capture the prisoners, who, when last heard from, were some twelve miles off, guarded by a band of thirty armed confederates. The night after, another attempt was made to assassinate the judge. Could such a transaction as this be done in any country where the laws were sufficient for the protection of the citizens?

Again, listen to the cool announcement of a leading democratic paper, the Georgia Constitutionalist, of February 17th instant, of a murder:

> NEGRO LEGISLATOR KILLED.—Abe Turner, negro, elected to the legislature from Putnam County, was killed near Eastontown, on Tuesday. It is not known by whom he was shot.

Were these cases, which are indiscriminately given as examples, isolated ones, they would not serve as a reason why general legislation should be enacted to meet them, but they are only examples of the crimes and outrages which your committee are informed upon, evidence

which compels belief and which do believe they are being daily committed in every State and in many counties in each State of the late rebellious and now lawless States. These crimes are the outgrowth of the passions and hates engendered in the war in the minds of the Southern people toward those who fought for the Union or remained true to it, and toward the negro who took no part against the Government. All agree that the negro does not desire to fight in any locality, and that as a rule they are a quiet and peaceful people; but your committee fear the negro may be pressed too far, and be compelled to take up arms in his own defense. These men who oppress him in the manner before mentioned seem to dread this, for in many counties they have preceded their outrages upon him by disarming him, in violation of his right as a citizen to "keep and bear arms," which the Constitution expressly says shall never be infringed.

Your committee can safely aver that were the same number of murders of American citizens which are committed in any State in the South, without any interference of the State authorities to punish them, in any week, done in the space of a whole year by any nation in the world, it would be a cause of instant demand for reparation on our part from the government of that country, followed by a declaration of war if the fullest atonement was not made. Indeed, your committee cannot but remember that Great Britain went to war and spent many millions of dollars against the half-barbarous people of Abyssinia for the simple imprisonment of some five Englishmen, while the Congress and Government of the United States have thus far sat supinely by and seen hundreds and thousands of their fellow-citizens either beaten with many stripes, suffering grievous bodily harm, their property burned, or murdered in cold blood. Therefore, it appears to your committee that legislation of the most stringent and effective character, with the grant of the most extraordinary powers possible within the limits of the Constitution to suppress such felonies and murders, imperatively demands the instant attention of Congress.

But when such legislation is proposed we are informed by some of those who for political reasons wish to cover up these heinous crimes against the law and Constitution of their country, that, admitting this state of outrage, bloodshed, and murder, there are also cases of murder and of like crimes in the North. No doubt crime is rife everywhere, but the fact of crime in the North by no means excuses crime in the South, and your committee would recommend as stringent provisions as any contained in the bill which they ask leave to report herewith, to apply to any State in the North where such murders were done and such crimes committed, if it could be shown that in those States there is no successful attempt made to bring any murderer to the condign punishment which he deserves. And it is believed that it cannot be successfully shown that a single case of execution, or hardly a single case of imprisonment in the penitentiary, of a white man for the murder or maltreatment of a negro has occurred in the Southern States within the last three years—and perhaps the time may be extended much further—or indeed a single offender brought to justice. And it is this deprivation of any protection of the laws that seems to require some energetic and sweeping action on the part of Congress in this regard.

Again, we are told by those who still further seek to cover these outrages that there are many other outrages committed against the law and peace of the community by the negroes of the South. Be it so. If the negroes do aught against the provisions of the bill herewith reported, they may be brought, and your committee hope they will be brought, to condign punishment, as well as the whites.

Again, some gentlemen find objections to the stringency of the provisions of this bill as being unconstitutional, and in derogation of the "reserved" rights of the States. For the stringency of the provisions of the bill, so far as its operative legal machinery to suppress crime is concerned, it is framed almost exactly upon the fugitive-slave law of 1850; and while your committee admit that many of the provisions of that law went to the very verge of the exercise of constitutional power by Congress, and that the law was infamous because the Constitution was almost strained in order to cover the stringency of the provisions with which the panting fugitive from slavery was hunted down when he reached the goal of liberty and restored again to his master, yet, as those provisions were never in practice declared unconstitutional, although executed in many States at the North, and although the bill was infamous because of its objects and not because of its provisions, your committee see no good reason why the constitutional powers of Congress may not be examined with a microscopic eye even to find authority for using the same provisions in protecting peaceable citizens of the United States in the enjoyment of life, liberty, and property against rapine and murder.

The Constitution, in the fifth article of amendment, as well as in the fourteenth article of amendment, where the same matter is substantially reiterated, provides that "no person shall be deprived of life, liberty, or property without due process of law;" and by the second article "the right of the people to keep and bear arms shall not be infringed." Again, the Constitution provides that "Congress shall have power to make all laws which are necessary and proper to carry into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States or any department thereof." The fourteenth amendment of the Constitution also has vested in the Congress of the United States the power, by proper legislation, to prevent any State from depriving any citizen of the United States of the enjoyment of life, liberty, and property. But it is said that this deprivation of life, liberty, and property, of which complaint is made, examples of which your committee have hereinbefore set forth, is not done by the State but by the citizens of the State. But surely, if the fact is as your committee believe and assert it to be, that the State is powerless to prevent such murders and felonies as your committee have described from being daily and hourly committed in every part of the designated States, and if, added to that, comes the inability of the State to punish the crimes after they are committed, then the State has, by its neglect or want of power, deprived the citizens of the United States of protection in the enjoyment of life, liberty, and property as fully and completely as if it had passed a legislative act to the same effect. One of the objects which the Constitution of the United States was framed to secure is "domestic tranquillity." Surely there is no domestic tranquillity in any State where the midnight marauder rides in force and commits unrestrained murder upon its unoffending and peaceable citizens. So that, whoever sets up as an argument the assertion that these outrages and murders which we have seen to exist in the several States lately in rebellion are not done by the State because they are not done in pursuance of State law, simply plays upon words, and leaves the Constitution and Congress of the United States powerless to protect by its laws anywhere citizens of the United States.

Again, it is said that the provisions of the bill herewith reported are very broad and sweeping, and that they make many new classes of crimes. This is very true; but who ever fears any danger from the

provisions of this bill has only to conduct himself as a peaceable, quiet, and orderly citizen, and the bill will certainly do him no harm. There is no provision in it aimed in any degree or in anywise against any such citizen of the United States; there is no provision in the bill that any one who observes the commonest principles of justice and right in his acts toward his fellow-men need for a moment to fear; and your committee trust that there will be found no man who will palliate or seek to shield crime and defend wrong when done by the wicked and felonious conspirator against the laborious and peaceful citizen. Whoever will do so, for him does this bill offend.

Again, it is objected that the execution of this bill will necessarily create a very considerable number of office-holders. To that we answer that the bill does not create them office-holders; it is the necessities of the country which creates for them; its condition necessitates these officers as conservators of the peace. They have no other functions, power, and duty than such conservators, save one, which your committee will explain in its place. These officers, of the authorization of which by this bill some men complain, are only to act relative to bad men—criminals, felons, murderers; and they are only to be paid their fees when they are so acting; and if there is neither crime against the provisions of this bill, nor felonies nor murders committed in the Southern States, then these officers will simply have nothing to do, and they will make no expense on account of the United States. It is admitted by your committee that the expense of the system of preserving the peace inaugurated by this bill will be very considerable. But is that expense for a moment to be considered when weighed against the lives and liberties, the peace and happiness of thousands of our fellow-citizens? And how inconsiderable will it be even when weighed against the expense of any civil outbreak between the inhabitants of any part of the South, to say nothing of the loss of property and of life which such civil commotion and perhaps war might bring upon the country. Indeed, the expense would seem to be simply the ounce of prevention as against the pound of cure, which will be called for if the remedy is not timely applied.

Having thus sketched the causes which render the bill necessary, the constitutional grounds upon which your committee think it may rest, and some of the reasons why this proposed legislation is proper, your committee beg leave to call attention to the preamble and several sections of the bill.

The preamble sets out substantially the grounds of the necessity for this legislation, to which your committee have hereinbefore adverted.

The first section of the bill provides that by the several circuit courts in the several rebellious States, including Kentucky, there shall be a learned and discreet person appointed United States commissioner for each county or city over twenty thousand inhabitants, or parish in the case of Louisiana; that that commissioner shall have all the powers which commissioners of the United States courts now have, and shall be paid for his services in like manner as such commissioners are now paid by law for like services; and that he shall reside in the county for which he is commissioned so long as he holds his commission.

Section second provides that it shall be the duty of these commissioners to cause to be arrested all offenders of whom they may have information of outrage committed or wrong done against the liberty, person, or property of a citizen of the United States, with the intent to hinder, impair, or deprive such citizen of the full enjoyment of any right guaranteed him under the Constitution, or any violation of the provisions

of the act, and by proper process to bring the offender before him, and to hold him, either by bail or commitment, to answer to the circuit court of the United States for the district for the offense with which he is charged, and to send with him to such court copies of all evidence which tends to prove the guilt of the accused. And it is also made the duty of the district attorney diligently to prosecute all such cases to conviction and sentence for the crimes committed. In order to preserve a full record of such crimes and misdemeanors as are actually committed in the South, to prevent the necessity of any committee of investigation or inquiry as to their nature, so that the state and condition of that unfortunate portion of our country may be fully seen and known, this section further provides that the commissioner shall also forward duplicates of all the cases heard before him, with all the evidence, to the Department of Justice, there to be preserved of record for the use of whomever it may concern, whether Congress or Executive. It will be seen that there is a necessity for many details for the purpose of carrying out the provisions of the act, but it is believed by your committee that they have been with very considerable care well fitted for that object.

Section third, which is copied, *mutatis mutandis*, from the fugitive slave law of 1850, provides, by the most stringent requirements, that the marshal and his deputies shall obey all lawful orders of the commissioner, and for quick and sure punishment in case of refusal; and, to render the disobedience of the marshals nugatory, the commissioner is authorized to appoint a sub-marshal to execute his process; and it is made the duty of all good citizens to aid him in putting his powers into execution for restoring the peace and arresting the offenders. And for that purpose the commissioner is authorized, as he was for returning fugitives from labor, to call the *posse comitatus* to his assistance to enable him to execute the laws. So far it follows the law from which we have quoted. It will be observed that an addition has been made empowering the commisssoner to call upon the President of the United States, or the nearest commander, for military or naval forces for the purpose of executing his process and dispersing any combinations of offenders against the laws, if any there shall be, and that his call shall be obeyed by the commander of the nearest forces until the orders shall be countermanded by the President of the United States. So that all the use of the military is in fact put under the command of the President of the United States, except in the case of a pressing exigency, where he cannot be reached in the remoter parts of the South; but that exigency ceases the moment information can be got to the President. Your committee admit that this provision to call out the military by the commissioner is not in the fugitive slave law, yet, your committee claim that it was there in fact, because Attorney General Cushing, in an elaborate opinion upon that subject (6, Opinions Attorney General) decided that the power given to the marshal, or the deputy marshal, to call upon the *posse comitatus* under the provision of the fugitive slave law, carried with it in fact a power to call upon the naval and military forces of the United States. Your committee doubted whether that opinion was not a too broad and extended inference from the text of the law, and to remove that doubt, have put that opinion in this bill, in the language of legal enactment. This your committee states as an answer to the suggestion, that if it were clear that the power to call on the *posse comitatus* was a power to call upon the military forces of the United States, then this provision would be useless, and might as well be stricken out of the bill; but as that power, as held by the fugitive slave law, was

but an inferential one, and relates to a matter of so delicate a nature as the right to call upon the commander of forces for troops to suppress combinations of offenders, and to assist in the execution of the laws, it would seem best that such power should rest upon express words of the law, so that the one calling may know the extent of his powers, and the one called upon the extent and necessity of his obedience, so that nothing should be left to inference. It will not fail to be observed that, while the fugitive slave law, under the opinion of the Attorney General, allowed every marshal and deputy marshal—not persons likely to be very discreet, or learned in the law—to call to their aid, for the purpose of arresting a fugitive slave, all the military, naval, and militia of the United States, in indefinite numbers, and for an indefinite time, yet by the provisions of this bill, as reported by your committee, only a commissioner, a judicial officer, learned in the law, and discreet, is allowed to call for such forces for a very limited space of time, while a pressing exigency exists, until the President of the United States, by a telegram, can have notice, and then the whole military force is under his immediate orders and supervision, where it has been well trusted in war, and may certainly as well be in peace.

The office of the fourth, fifth, sixth, seventh, eighth and ninth sections is to declare certain acts against the life, liberty, and property of the citizen offences against the United States. First, it makes it penal and a high misdemeanor for men to be found in the public highway or on the land, or in the dwelling occupied by another, in disguise, whether armed or unarmed, alone or with others, with intent to do injury to the person or property, or by force of numbers to terrify or frighten and overawe others so as to hinder or prevent from the peaceable enjoyment of their legal rights and privileges. This is made a high misdemeanor if done in the day time, and a felony if done in the night time.

Section fifth provides that in case of the commission of any of the offenses provided for in the fourth section, all persons present shall be principals, and if death, or arson of a dwelling-house in the night time ensue, the offenders shall be punished as for a capital felony at common law, and committed to await trial without bail.

Section sixth provides that whoever shall conspire together to coerce or compel any citizen by any means to do or refrain from doing any act which he may lawfully do or refrain from doing, shall be guilty of a misdemeanor; and if such party shall go from one State or Territory into another for such purpose, then the misdemeanor of such party shall become felony on the fact being found by a jury.

Thus far the bill is aimed at combination of numbers, armed or unarmed, or conspiracies to do unlawful acts which are a molestation of peaceable citizens.

Section seventh provides that whoever shall intimidate, treat with violence, refuse to employ, or discharge from employment, or threaten with personal harm, any citizen, with intent to hinder him in the free exercise of his rights, or to do either of said acts because the citizen has legally exercised his rights, shall be punished for a misdemeanor, and be liable for all demands for his unlawful acts, to be recovered by the party injured.

Section eight is intended to enforce the well-known constitutional provision guaranteeing the right in the citizen to "keep and bear arms," and provides that whoever shall take away, by force or violence, or by threats and intimidation, the arms and weapons which any person may have for his defense, shall be deemed guilty of larceny of the same.

This provision seemed to your committee to be necessary, because they had observed that, before these midnight marauders made attacks upon peaceful citizens, there were very many instances in the South where the sheriff of the county had preceded them and taken away the arms of their victims. This was specially noticeable in Union County, where all the negro population were disarmed by the sheriff only a few months ago under the order of the judge who resigned lest he should be impeached by the legislature; and then, the sheriff having disarmed the citizens, the five hundred masked men rode at night and murdered and otherwise maltreated the ten persons who were there in jail in that county.

Section ninth is aimed at an evil which your committee is informed exists to a very great extent in the States in which this bill will act. It has come to your committee from many different sources that there are secret organizations under the name of "White Brotherhood," or "Knights of the Golden Circle," or "Ku-Klux Klan," or what other designation is used for the purpose of combination to break the laws of the State and the United States, where oaths are administered binding the members to conceal their own crimes and those of their fellows even in a court of justice, and binding them also to do the bidding of the chiefs of the order. The ninth section provides, therefore, that whoever shall take any such oath or obligation for the purposes above indicated shall be held guilty of a felony. Nothing is so abhorrent to the principles of republican liberty as in secret oath-bound organizations for the purpose of overriding the law, and nothing should be met with such condign punishment.

Section tenth is only aimed at the aiders and abettors of the criminal, making them equally guilty with the principal, and providing for the mode of their trial.

Section eleventh introduces a principle into the bill which is as old as the English common law, which held the ville, riding hundred, or county, as the case might be, responsible for damages, where they failed to arrest and bring to punishment the offender against the law, when the subject was injured by a crime and the community failed to arrest and bring to punishment the offender. The whole penalty, which accrued for the benefit of the complainant, was placed, in case of failure of justice, upon the community. This common-law provision was imposed upon the supposition, which was then, as now, exactly true, that great crimes to the individual subject could not be done without being punished, and the offender brought to justice, unless he was screened by the community in which the crime happens; and the common law, aided by special statutes, in the perfection of its wisdom, held that the community screening the offender, treating the failure and neglect to arrest him to be equivalent to screening, to pay the loss and injury sustained by the crime to the sufferer; and the eleventh section is drawn with the intent to carry out a similar purpose.

The twelfth section provides for punishment for the special crimes in the bill; imposing hard labor for felony, fine and imprisonment for misdemeanor, and capital punishment for the capital felony of arson or death in the night time of a peaceable citizen by armed and disguised bands of marauders. The same section also provides the jurisdiction of the court, and the manner of carrying on the prosecution and trials in the same.

The thirteenth and fourteenth sections, comprising the remainder of the bill, have a different action from their associate provisions. It is well known to Congress and the country that there are very large num-

bers of claims for loss or damage suffered during the war by men who claim to have been loyal and true to the Government, and many of whom were loyal and well-disposed toward the Government, even at the risk of their lives, during the war, of which there is now no provision to get, obtain, or preserve the evidence. And it is equally well known that there is a large number of fraudulent claims, either in their amounts or fraudulent in that they are the claims of those who were enemies of the United States during the war, and of course ought not to be paid. The necessity of some legislation in this regard is seen from the many attempts made during the present session of Congress to provide some remedy for loyal men of the South in that regard. Therefore, these commissioners being appointed in each county for the purposes indicated in the foregoing sections, it is provided by the thirteenth section that whoever, being loyal and well disposed during the war, and still remaining so, shall, by petition, apply to one of the commissioners, setting forth the facts of his claim, under oath, and of his loyalty and good dispostion toward the Government, and producing such loyal and well-disposed persons as witnesses as he may have to sustain his claim; that the testimony shall be examined by the commissioner, reduced to writing, and, together with the petition and other documentary evidence, transmitted to the Department of Justice, at Washington, together with the commissioner's opinion as to the character for loyalty of the applicant and his witnesses.

Section fourteenth provides that the Attorney General, upon the reception of this evidence, shall cause the same to be indexed for reference, and printed for the use of Congress, that the same may be used as evidence before the committees of either house of Congress whenever the claim is presented. It is further provided, in analogy to the restriction upon presentation of the claims of loyal men before the Court of Claims for property captured or abandoned during the war, for a limitation of two years in which the evidence of claims for losses may be presented to the commissioner, all others not so presented in that time are barred.

It will be seen that the bill proposes to confine the evidence taken to claims by loyal men, to be proved by loyal witnesses; the testimony taken to be cross-examined by a learned and discreet commissioner, and forwarded to the Department of Justice for record; so that claims made by a loyal man in the presence of his friends and neighbors, who are supposed to know all about it, and will, if they know all about it, be approved by his loyal neighbors, only will come here and be filed of record with the testimony with which he can sustain it. This will effectually prevent the growth of the claim thereafterward, which was so signally noticeable in the Chorpenning claim, which a number of years ago was only a sum of a few thousand dollars, but after many thousands had been paid grew to the enormous extent of half a million; and will protect the United States against fraudulent claims, and preserve the evidence of the just ones only, so that the claim can be fully understood. The prevention of frauds upon the United States in this regard alone would be also worth more than all the cost of the commissioner. In the case of just claims which ought to be paid, it is but giving a proper remedy to the loyal southern man who, if truly loyal, was true to the country under difficulties and embarrassments such as were seen by few, if at all, in the North.

Your committee have now presented the general features of the bill. They look upon its enactment into law as very important to the welfare and safety of the country—more so than any other passed during this,

and perhaps any session of Congress since the war. On the enforcement of its provisions they look for the weal or woe, the safety from violence or breaking out of a war of races at the South. Your committee would most strongly urge and recommend its passage. They would call attention to the fact that the bill has been very carefully examined in committee at two successive meetings, with almost the entire committee present, and that the bill forms a part of one system of legislative remedy, and cannot well be amended without injury to the whole; and a little reflection will show that it would be as hazardous to undertake to amend it by inserting new provisions or striking out any of the provisions already made, as it would for the owner of his watch to add to or subtract from his time-keeper a cog-wheel. Your committee would therefore submit that if the bill is passed at all, it should be passed substantially as a whole.

Your committee beg leave to report the bill which has been described, and ask leave to have it put upon its passage.

BENJ. F. BUTLER,
For the Committee.

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41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 38.

CHANGE AND MODIFICATION OF BANKRUPT ACT.

FEBRUARY 23, 1871.—Ordered to be printed and recommitted to the Committee on Revision of the Laws.

Mr. JENCKES, from the Committee on Revision of the Laws, made the following

REPORT.

[To accompany bill H. R. No. 2124.]

The Committee on Revision of the Laws of the United States, to whom was referred "A bill to change and modify the act entitled an act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867, have examined the bill submitted to them, and have heard various other propositions of amendment to the bankrupt law of a nature kindred to the provisions of said bill, and, after giving the same a careful consideration, do hereby submit the following report thereon:

The scope of the bill and of the kindred propositions is to give additional powers to the registers in bankruptcy, and to establish them as inferior courts in the several congressional districts for which they are appointed, for the transaction of the greater portion of the business in bankruptcy. The theory of the existing law is that every matter of law or fact upon which an issue is framed shall be adjudicated by the district judge as a court of bankruptcy, and that every other matter of administration under the law and the general orders may be disposed of by the register. The register is required to state every issue that arises before him in transacting the administrative business of the court, and to certify it to the judge for decision, and the judge may or may not require his opinion on such issue; but which, if given, is of no avail unless adopted by the judge.

The reason for this discrimination is to be found in the Constitution itself. The judicial power of the United States is vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish. It follows that every portion of the judicial power of the United States must be exercised by some court, and that it cannot be delegated to any one but the judge of such court, as the same may be established by Congress.

In framing the bankrupt law all the power was given to the registers that was possible, consistent with this theory, but some of them have been continually asking for more; and this bill is in many respects identical with certain propositions of amendment proposed by one of the registers, and communicated in print to the members of the committee, and otherwise liberally distributed.

Thus it proposes to construe the word "court" in the act as meaning "register," wherever the word occurs, and such construction would not be inapplicable, and authorizes the register to decide all issues of law or fact that may be raised before him by the parties; and when either

party requires it, and pays the costs, the register is to certify the question with his decision to the district judge for review; it gives the register power to compel the attendance of witnesses, to take all testimony, and the examination of the bankrupt; to compel the signature of the bankrupt, or of any witness, to his examination, and to have the same power to punish for contempts that the courts of the United States now have. All petitions in bankruptcy, voluntary or involuntary, in their respective districts, are to be presented in the first instance to the register, and he is to have power to adjudicate the bankruptcy when there is no opposition; he is to issue the notices to creditors, call meetings of creditors, appoint official assignees and additional assignees, and to remove them at pleasure; he is to receive the petition for the discharge of the bankrupt, to notify the creditors, to adjudicate on the question of the discharge, to refuse or to grant the discharge, and to give the certificate; and to do this without reference to the amount of assets; and he is to have the same power which the courts now have over copartnership property, and the separate property of the copartners.

All papers in any case are to be kept by him till the proceedings are ended, and he is then to file them in the office of the clerk of the district court. Only in the case when a trial by jury is demanded by the debtor, is he to yield to the district judge. There are many minor provisions of a similar character.

It is manifest that if this bill should be enacted into a law the registers would be clothed with powers which can be exercised only by judges, and would become, in the sense of the Constitution, inferior courts. They must be appointed by the President and confirmed by the Senate, and not appointed as they are now by the courts of law, and their tenure of office would be during good behavior.

The first effect of passing such a bill would be to legislate all the present registers out of office.

It may under certain possible circumstances become necessary to the administration of justice under the laws of the United States to establish inferior courts in every congressional district; but in the opinion of your committee it is clearly not necessary for the proper administration of the bankrupt law. The course of proceeding under it has been made so clear and plain by the general orders and forms promulgated by the Supreme Court, and by the rules and decisions of the district judges, that the questions which require a reference to the district judge for determination are very limited in number. The questions upon which judges have differed in opinion are fewer than ever were known under any similar statute within the same period, and most of these causes of difference have been removed by apt amendments to the statute itself. The delay in the transmission of papers by mail between the offices of the register and of the clerk, and the necessity and expense of copies of the papers filed with the register to be sent to the clerk, are of little account when compared with the great convenience to all parties to have all the records in a judicial district kept at one place, and to have all the judicial business transacted in one court. Under the law as it stands the register can transact his administrative business at any place in the congressional district for which he is appointed, to suit the convenience of parties, and can be sent into another district if the judge deems it advisable, and his traveling expenses are paid to him in addition to his fees. He is clothed with the power to transact all business except only that which requires the exercise of the judicial power, and which by the Constitution is confined to the courts alone.

Besides, if the register should be constituted a court he must have a clerk, and an executive officer like a marshal, a seal, a place to keep

his records, and a hall to hold his courts. The additional expense to the Government and to the suitors would more than counterbalance any supposed convenience from the establishment of these new local courts.

It has been suggested that there is some ambiguity in the use of the word "court" in the act as it now stands. The committee can see none. All the proceedings in bankruptcy are conducted in the district court, and the registers are officers of that court, and whenever the judicial power is required to be exercised, it must be by the judge, and where the act is administrative or ministerial it may be by the judge or by the register. Bearing this distinction in mind no passage has been pointed out to us in the law where the use of the word "court" causes any ambiguity.

It has been suggested that it is an inconvenience to have the notices go through the office of the marshal of the district. The expense of the service would be no more when made by the marshal than by the regisister or some one specially deputed by him for that duty, but the protection to the petitioner or creditor is far greater. These notices are in the nature of process, and when properly sent by mail are sufficient in themselves to bring the party served within the jurisdiction of the court from which they issue. The marshal is a responsible officer, and gives a substantial bond, and himself and his sureties are liable for any failure in the performance of their duty, or for any false return. It is for the benefit of suitors that they have the protection of this responsibility and of this bond.

There are, and will continue to be, inconveniences arising from the extent of some of the judicial districts which it is not possible to overcome. But henceforth the persons upon whom the law will operate will be mostly found in the towns and cities, and the inconvenience is not greater to them than to the suitors in admiralty, who have to resort to the same courts for relief.

The principal remaining subject in the bill referred to us is that of fees. With the increasing powers and duties, greater and additional fees are asked for the registers. But it is wholly unnecessary to legislate on this subject. By the law as it stands, the justices of the Supreme Court are authorized to establish a schedule of fees for all the services performed by the register, and such fees for other officers as are not prescribed by law. The experience of these judges in the administration of the law will enable them to revise the schedule of fees with greater justice to the officer and the suitor than can be done by legislation. From copies of fee-bills as taxed by the judges in different districts, which have been forwarded to the committee, it does not appear that there is any great inequality or injustice in the fees as now allowed under the law, or that they are either inadequate or exorbitant. The committee have been informed that in many cases fees have been claimed by the officers which are not warranted by the existing law and the general orders promulgated by the Supreme Court, and in some cases they have been collected, but the courts have always been prompt to correct any such attempts at exaction whenever brought to their notice. It seems to your committee safer and better to leave this whole subject where it is now placed by the statute.

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41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 39.

AFFAIRS IN THE INDIAN DEPARTMENT.

FEBRUARY 25, 1871.—Ordered to be printed and recommitted to the Committee on Appropriations.

Mr. SARGENT, from the Committee on Appropriations, made the following

REPORT.

The Committee on Appropriations, who were instructed to make investigation into Indian affairs, made the following report:

Certain charges were made December 7, 1870, by William Welsh, of Philadelphia, against the Commissioner of Indian Affairs, in a letter to the Secretary of the Interior, containing allegations of fraud and improvidence in the conduct of Indian affairs. The letter was published in the Washington papers and elsewhere, and though the writer held no official position it appeared that some investigation into the conduct of the officers charged with disbursements for Indian purposes was necessary. Accordingly on the 12th of December, 1870, the following resolution was adopted by the House of Representatives:

Resolved, That the Committee on Appropriations be directed to inquire and report to this House what effect, if any, has been given to the following provision of the act "making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1871, and for other purposes," namely: "It shall be the duty of said board of Indian commissioners to supervise all expenditures of money appropriated for the benefit of Indians in the United States, and to inspect all goods purchased for said Indians in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commission in making purchases of such goods." Also to what amount moneys have been expended on goods purchased in disregard thereof; also, whether the contracts for the purchase of flour or beef cattle for the Indian tribes on the Missouri River have been corruptly or improvidently made, or for greater quantities than required by the service; also, to investigate the charges of fraud and improvidence against the Indian service made in the report of William Welsh, esq., to the Secretary of the Interior; also, whether any portion of the sum of $90,000 appropriated in said act for the Quapaw Indians has been paid to other parties or diverted from its intended use; and that they have power to report at any time, and send for persons and papers.

Under this resolution your committee have endeavored to execute the will of the House, and have made strict and thorough investigation within the limits of inquiry designated. The first act of the committee was to give written notice to the complainant of the pendency of the investigation, and to request of him to be present at the sessions of the committee, and to furnish the names of any witnesses who could testify to the alleged misconduct. A notice was also sent to Commissioner Parker, requesting his presence, and offering to compel the attendance of any witnesses he might require for his defense. In compliance with the suggestions of the committee, Mr. Welsh appeared, and personally conducted the examination of witnesses; Mr. Parker, by leave of the committee, being represented by counsel of his own choice. A large amount of testimony was taken for the respective parties, and the committee

summoned others of its own motion. The testimony, as well as the printed arguments of the respective parties, is submitted with this report. It is due to truth to say that in the examination of witnesses the committee deemed it a duty to assist the prosecutor, who is not a lawyer, in a rigid examination of witnesses; to exert for him every power delegated to us to bring witnesses before the committee; to lay open the files and records of the Departments, and even the private bank accounts and telegrams of individuals connected with the inquiry.

To the mind of the committee, the testimony shows irregularities, neglect, and incompetency, and, in some instances, a departure from the express provisions of law for the regulation of Indian expenditures, and in the management of affairs in the Indian Department. But your committee have not found evidence of fraud or corruption on the part of the Indian Commissioner. With much to criticise and condemn, arising partly from a vicious system inherited from the past, and partly from errors of judgment in the construction of statutes passed to insure economy and faithfulness in administration, we have no evidence of any pecuniary or personal advantage sought or derived by the Commissioner, or any one connected with his Bureau.

The first duty enjoined upon your committee was to inquire and report what effect, if any, has been given to the third section of the appropriation act of July 15, 1870, and what amount of moneys has been expended in disregard of it. The section referred to is as follows:

> And it shall be the duty of said commissioners [referring to the board of commissioners created by the act approved April 10, 1869] to supervise all expenditures of money appropriated for the benefit of Indians in the United States, and to inspect all goods purchased for said Indians, in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commissioners in making purchases of such goods.

There is much testimony concerning a contract made with J. W. Bosler for a supply of beef, bacon, and other articles, on the 17th of June, 1870, to which we shall hereafter allude; but it is sufficient to say for this branch of the subject, that that contract was made nearly a month before the appropriation bill containing the foregoing provision was enacted; and however it may have been made in disregard of other laws, it should not be judged by the subsequent statute. There was an extension of this contract made on the 10th of August, 1870, as to beef and flour, and a contract was made with J. A. Morrow for beef on the 17th of September, 1870, as well as several minor contracts, together involving a large expenditure, to which the section referred to in the resolution will apply. It appears from the evidence that the Commissioner of Indian Affairs did not consult the board of Indian commissioners in making purchases of provisions, or of any goods for the Indian service, except dry goods, blankets, and articles of that character. The explanation given in his testimony for this neglect is, that he believed that the law made a distinction between "goods" and "supplies," and the inconvenience of calling upon the commissioners to inspect every purchase and supervise every expenditure under the act. Your committee believe this view of the Commissioner erroneous, and that it was his duty to require the commissioners to supervise all purchases, to inspect all goods and supplies, and to consult the board on all expenditures. If the law worked inconvenience, on proper representation, after fair trial, Congress would probably modify it. The organization of the board of Indian commissioners was a part of the new system for dealing with the Indians, designed to aid in the introduction of an element of humanity into the dealings of the Government with the Indians, and to insure economy and faithfulness in expenditures for their civilization and com-

fort. Even with the limits to their usefulness occasioned by this construction of the Commissioner, they have succeeded in accomplishing much good, and have unselfishly and honorably discharged the duties required of them. The benefits of their supervision may be seen from the testimony relating to the purchase of annuity goods, where better articles were obtained at less prices than ever before.

The next article of inquiry submitted to us is "whether the contracts for the purchase of flour or beef cattle for the Indian tribes on the Missouri River have been corruptly or improvidently made, or for greater quantities than required for the service."

On the 17th of June, 1870, a contract was made with J. W. Bosler, of Carlisle, Pennsylvania, for the following-described subsistence stores, to be delivered as stated in the following extract from the contract, and at the prices stated:

To the agent of the Yankton Sioux Indians, at their reservation in Dakota Territory, the following supplies, viz: 234,000 pounds of beef, net, 24,000 pounds of bacon or dried salt pork, 96,000 pounds of flour, 7,600 pounds of coffee, 15,200 pounds of sugar, 1,920 pounds of salt, 1,920 pounds of soap, 900 pounds of tobacco.

To the agent in charge of the Indians at the Crow Creek agency, Dakota Territory, the same quantity of each article as that agreed to be delivered at the Yankton reservation.

To the agent in charge of the Indians at the Cheyenne agency, Dakota Territory, the same as at the Yankton reservation.

To the agent in charge of the Indians at the Whetstone agency, Dakota Territory, the following, viz: 468,000 pounds of beef, net, 48,000 pounds of bacon or dried salt pork, 192,000 pounds of flour, 15,200 pounds of coffee, 28,800 pounds of sugar, 3,840 pounds of salt, 3,840 pounds of soap, 1,800 pounds of tobacco.

To the agent in charge of the Indians at the Grand River agency, Dakota Territory, the following, viz: 585,000 pounds of beef, net, 60,000 pounds of bacon or dried salt pork, 202,500 pounds of flour, 18,000 pounds of coffee, 36,000 pounds of sugar, 4,500 pounds of salt, 4,500 pounds of soap, 2,250 pounds of tobacco.

The beef is to be of good, merchantable quality, and to be delivered on foot; one-third, or thereabouts, to be delivered on or about the 15th of July; one-third on or about August 1, and the residue on or about the 1st of September, 1870.

The flour is to be of number one spring wheat, in accordance with the sample in the office of the Commissioner of Indian Affairs, Washington, District of Columbia.

All the articles herein named, with the exception of the beef, are to be delivered at the respective agencies, between the 1st and 15th of July, 1870, and are to be of a good merchantable quality.

In consideration of the faithful performance of this agreement on the part of the party of the second part, he shall be paid at the office of the Commissioner of Indian Affairs, Washington, District of Columbia, on presentation of the receipts of the respective agents, the following prices, to wit:

For all beef furnished by him and received by said agents he shall be paid at the rate of six and a half cents (6½c.) per pound gross; for bacon, twenty-five cents (25c.) per pound; for flour, six and a half cents (6½c.) per pound; for coffee, twenty-eight cents (28c.) per pound; for sugar, eighteen cents (18c.) per pound; for salt, eight cents (8c.) per pound; for soap, fifteen cents (15c.) per pound; and for tobacco, eighty-five cents (85c.) per pound.

This contract was made in advance of the passage of the Indian appropriation bill, which was delayed by the difference between the House and Senate as to the proper mode of dealing with treaties made by the peace commission, and was not in pursuance of public advertisement. The excuse given for the making of this contract at that time is found in the following extract from the testimony of the Commissioner:

Q. Where was this contract of the 17th of June entered into?—A. In Washington City.

Q. What was the exigency that required a contract of that magnitude?—A. The Sioux, of Missouri, in June, 1870, had five agencies along the Missouri River, covering a distance up and down the river of, I suppose, between six and eight hundred miles; they had recently come into these agencies, and located under the stipulation that they should be subsisted there, according to their treaty with the peace commissioners. In the appropriation bill for the fiscal year ending June 30, 1870, was the appropriation

of two millions in bulk for the use of the Indians generally. After the passage of that appropriation bill, an arrangement was made with the Commissary Department of the Army to subsist the Indians wherever it was necessary, to be paid out of that two million fund. These Sioux Indians, while they were not really friendly, were not absolutely hostile. The appropriation bill was hanging here in Congress. On the 15th of June, two weeks before the arrangement with the Commissary Department was to terminate, we saw before us very serious difficulties. If the office took no action at all for continuing the supplies after the commissary's had ceased, we feared that the Indians would either leave the agencies or subsist themselves by depredating upon what they could find about them. We did not want them to leave the agencies or enter into any kind of depredations. My idea was that if we could subsist them for three months, we could in the ordinary routine of the business of the office be able to make regular arrangements for subsisting them after that time; and in making this contract of the 17th of June, my intention was to cover the exigency which then seemed to arise for subsistence for about three months from the 1st of July.

Your committee admit that the delay of the passage of the appropriation bill caused serious inconvenience to the Indian service, and necessitated some action to keep the restless Indians at peace, and to avert an Indian war. The Commissary Department had signified its purpose to cease furnishing supplies, and these had to be looked for in some other direction. But we think the Commissioner erred in taking the responsibility of making this contract, even if he consulted the Secretary of the Interior in the matter. The law of March 2, 1861, section 10, contains this clause:

> No contract or purchase shall hereafter be made, unless the same be authorized by law or under an appropriation adequate to its fulfillment, except in the War and Navy Departments, for clothing, subsistence, forage, fuel, quarters, or transportation, which, however, shall not exceed the necessities of the current year.

The President of the United States unquestionably has the power, in view of an exigency such as existed in this case, to order supplies for the Indians through the War Department, and it is a dangerous power, not contemplated by law, to allow a subordinate officer to make large purchases at his own discretion in the absence of appropriations. But that an exigency existed there can be no doubt from the testimony.

In one of Governor Burbank's letters to the Commissioner, (June 18,) he says:

> Allow me to call your attention to the statement of Major Hearn, that the flour, bacon, sugar, and coffee will last only to July 1. You are well aware that we must feed or fight the Indians in this superintendency, and by failing to have full supplies on hand we furnish the disaffected with an argument, or pretext, at least, to compel those who are disposed to be friendly to join them.
>
> I trust that you have the means at your command to send a full supply at once; but, if not, I hope that you may devise some means whereby subsistence can be kept on hand at this and all the other agencies.

Agent Hearn, from the Grand River agency, June 2, 1870, writes:

> I earnestly request that supplies be forwarded as soon as possible, as the deportment of the Indians deserves that the Government should promptly comply with the conditions of their treaty.

Again, July 1, Agent Hearn writes:

> We are entirely out of flour and bacon. * * Many Indians are dissatisfied, and think the Government is going to stop feeding and clothing them, as their supply of provisions for the coming year has not arrived, and they are living on corn and beef. I respectfully request that supplies be forwarded as soon as possible, if they are not already on the way.

Captain Poole, Indian agent at Whetstone, wrote, June 18:

> I am officially informed by Colonel Sullivan, supervising commissary Sioux Indian country, stationed here, that the rations for Indians at Whetstone agency will be entirely exhausted by the 10th day of July, 1870. As all the time will be required from this date to forward said supplies from this point, the nearest market where they can be procured, I deemed it for the interest of the service to notify you by telegram, that immediate steps may be taken to continue the supplies.

And he telegraphed the same day:

The supplies for Indians at Whetstone agency will be entirely expended by July 10, 1870; all the time will be required to forward more. Colonel Sullivan, commissary of subsistence, is prepared to forward them from this point on receipt of orders. Will the order be issued?

Major Goodhue, agent of the Yankton agency, wrote June 18, as follows:

I cannot too strongly urge upon the Department the importance of making provisions for the Indians of this agency, commencing with the month of July. All the rations provided for them under contract of last year will have been consumed by that time, and, in my judgment, if the Department should cease to feed them at this time, the Indians will scatter, many of them joining the disaffected Sioux, who are now committing depredations along the line of the Union Pacific Railroad. The Indians of the upper agencies are constantly taunting the Yanktons with a statement of the fact that they, (the Yanktons,) who are peaceable and friendly to the whites, have never received the presents and provisions from the Government that they, the hostile and unfriendly ones, have. If the Government should feed the Indians of the Whetstone, Cheyenne, Crow Creek, and Grand River agencies during the coming year, and withhold supplies from the Yanktons, it will result in the disintegration of the tribe, and have a strong tendency to alienate the friendly feeling now existing toward the Government. And if perchance there should be an uprising of the Sioux Nation this year, the Yanktons, smarting under what they deem the neglect of the Government, would in all probability join the hostiles. It is of the first importance, in view of the past and present efforts to advance these Indians in civilization, to pursue a policy that will induce them to remain contentedly on their reservation. If they become scattered and disaffected, in a very short time they will relapse into the same degree of wildness and barbarism that now characterizes their brothers of the Upper Missouri.

In view of these facts, I would earnestly invite the attention of the honorable Commissioner of Indian Affairs to the importance of making ample provision for subsisting the Yankton Indians.

The representations to the Commissioner about that time seem to have been uniform and urgent for some provision to be made to meet an exigency.

If an exigency existed for these supplies, which we cannot doubt, it was not only impossible to take the time necessary for an advertisement, but it was dispensed with by law. Section 10 of the act of March 2, 1861, provides that—

All purchases and contracts for supplies or services in any of the Departments of the Government, except for personal services, when the public exigencies do not require the immediate delivery of the article or articles, or performance of the service, shall be made by advertising a sufficient time previous for proposals, respecting the same. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract at the places and in the manner in which such articles are usually bought and sold, or such services engaged between individuals.

It is alleged that the prices paid under this contract were larger than they should have been, or than fair competition would have secured for the Government. The price paid for beef, though not higher than the prices paid by the Indian Bureau and the peace commission in previous years, is considerably more than under a subsequent contract made with Morrow, and higher than that paid by the Commissary Department for the same reservations during the year 1870. We think this is partly due to the higher prices charged by contractors when there is no money in the Treasury to pay their bills, and an uncertainty about appropriations, and partly to an absence of competition. The Commissioner says he endeavored to inform himself as to the prices of supplies, and that many persons seeking contracts conversed with him. The only evidence of the nature of the offers made at that time is in the testimony of Mr. Finn, of St. Louis, who offered in writing to take a contract for the Whetstone agency, at a less rate per pound. As we have indicated, the proper solution of the matter was for the Commissioner to have referred it to the President, that the Indians might be sub-

sisted through the War Department. By this means the advantage of a lower rate could probably have been secured, and there could have been no opportunity to allege the assumption of doubtful powers by the Bureau officer.

After making this contract, and the passage of the appropriation bill, the Commissioner visited New York, and, in concurrence with the Indian commissioners, made purchases of three or four hundred thousand dollars' worth of goods for annuity purposes, after advertisement. He left in charge of his office his chief clerk as Acting Commissioner, endeavoring to direct its affairs, in part, by telegraph. He was gone, most of the time, for two months. During the time the chief clerk neglected to advertise for further supplies, and the Commissioner being, as he states, absorbed in the New York purchases, did not direct any action to be taken to procure further supplies until the 10th of August, when, without advertisement, he directed Bosler to furnish 1,500,000 pounds more of beef, net, at the rate of the June contract, and from 2,000,000 to 3,000,000 pounds of flour, not to cost exceeding three and a half cents per pound at Sioux City. There seems no reason for the neglect to invite competition, by advertisement, for these supplies, except the absence of the Commissioner, and his attention to the purchases being made in New York. He may have relied on the skill and promptitude of his chief clerk, but we think he should have given personal attention to the matter. The Morrow contract for beef was made September 17, 1870, after due advertisement, and the benefit to the Government from advertising is shown from the fact that the beef furnished under it was contracted for at $3 88 per hundred pounds, against $6 50 per hundred pounds under the Bosler contract. Seventeen proposals were made, averaging about $5 per hundred weight, gross. As there was money to pay the bills, the contractors could offer at lower rates, and the difference the Government gained would probably have been secured in August, if, instead of the August extension, an opportunity for competition had been given at that time. It is alleged, however, that the present contractors are losing heavily under their contract. In regard to the contract made for transportation of goods on the Missouri River, we think an examination of the contract made by the Commissioner, and those by the Quartermaster's Department, will show that the latter are most favorable to the Government, notwithstanding the stress laid upon the value of the way freights provided for in the latter. It is true, the season was advanced when some of the Indian goods, needing transportation, were shipped, and the river was getting low. Any interruption of navigation would lead to great expense in transporting by wagons by the company taking the contract; yet we believe that competition, obtained by advertising, would have secured at least as favorable rates as the quartermaster's contracts afforded; and most of the supplies, if not all of them, could have been carried under the latter contract.

We do not find that the purchases have exceeded in magnitude the wants of the service.

In conclusion of this branch of the subject, your committee would state that they have no action to recommend to the House other than they have heretofore incidentally suggested. We think that the law requiring the supervision of Indian expenditures was wisely intended, and that it should be executed. To give it greater clearness and efficiency the committee proposed recently the following amendment to the Indian appropriation bill, which was adopted by the House, and we trust may become a law by the assent of the Senate and Executive:

That hereafter no payments shall be made by any officer of the United States to contractors for goods or supplies of any sort furnished to the Indians, or for the transportation thereon, or for any buildings or machinery erected or placed on their reservations, under or by virtue of any contract entered into with the Interior Department, or any branch thereof, on the receipts or certificates of the Indian agents or superintendents for such supplies, goods, transportation, buildings, or machinery, until such receipts or other vouchers shall have been submitted to the executive committee of the board of commissioners appointed by the President of the United States and organized under the provisions of the fourth section of the act of April tenth, eighteen hundred and sixty-nine, and the third section of the act approved April fifteenth, eighteen hundred and seventy, for examination, revisal, and approval; and it shall be the duty of said board of commissioners, without unnecessary delay, to forward said receipts or other vouchers so submitted to them to the Secretary of the Interior, with the reasons for their approval or disapproval of the same, in whole or in part, attached thereto; and said Secretary shall have power to sustain, set aside, or modify the action of said board, and cause payment to be made or withheld as he may determine; if he overrules or modifies the action or decision of said board of commissioners, he shall furnish said board with his reasons therefor in writing, which shall be made part of their records.

We have found the system of agents' receipts, as vouchers, unsatisfactory and unsafe, and a change is necessary in the public interest. There is ample opportunity for fraud and collusion in the delivery of goods, both in quantity and quality. There is no present means of ascertaining how often they do occur. We think a vigilant supervision by the board of Indian commissioners, with the real supervisory power proposed in the above amendment, would check many evils almost inseparable from the present mode of receipting and paying for goods.

PAYMENTS TO QUAPAW AND OTHER INDIANS.

The resolution of December 12, 1870, also directed the committee to inquire "whether any portion of the sum of $90,000 appropriated in said act for the Quapaw Indians has been paid to other parties or diverted from its intended use." On this branch of the subject there is little or no controversy as to the facts. By the act of July 15, 1870, the sum of $90,000 was appropriated to enable the Secretary of the Interior to fulfill the twelfth article of the treaty with the Senecas, Mixed Senecas, Shawnees, and Quapaws, to be paid personally to each claimant or his heir, according to tribal usage, *pro rata*, on the awards, as set forth in report of commissioners dated April 25, 1869. About the middle of October, 1870, Joseph A. Williamson, a clerk in the office of the Secretary of the Interior, made the payment under orders from the Secretary. A number of persons were present, and while Mr. Williamson complied with his orders by placing the money in the hands of each Indian, one-third of it was paid to General James G. Blunt, and other portions, doubtless varying in different cases, to the Indian traders, before the parties to whom Mr. Williamson paid it left the room. The mode of payment to each is perhaps best described by Mr. Earle, of Worcester, Massachusetts, one of the committee appointed from New England to take a general interest in behalf of the Indians. As to the payment, he testified as follows: (See page 15 of the evidence taken before the committee.)

When this payment was about to take place, I mentioned that I had come there hoping to see justice done to the Indians, and that I should like to be in the room, if there was space for me. Mitchell said certainly, and I took a seat. I was going to take a seat by a little desk, but he said that that was General Blunt's desk. That was all arranged between him and the agent. There was another seat near Blunt's, which was for one of the clerks of some of the traders. I sat near him, and near another clerk of another trader; Agent Mitchell sat right before me; Jocknick sat in the corner, behind the stove, near the door; Williamson in the center of the room; and the interpreter between us. Thus the payment went on very much as Mr. Williamson has

described it. Sitting back and seeing the whole proceeding, and being a little more disinterested than he, I could perhaps describe it a little more accurately. There was no specific sum paid to the trader, but only the amount of the orders which Agent Mitchell had given for goods for the Indians. I kept a record of it in my book. For instance, No. 75 came in. His claim was $338 21. Jocknick handed a ticket to Pilkinton, who mentioned the amount and handed the ticket to Williamson. Williamson then sung out the amount and handed the money to the Indian. The Indian passed it directly to Mitchell, and Blunt, and myself. I would say how much Blunt was to have. Then the store-keeper would say how much his claim was, and I would tell them how much went to the Indian. Mitchell then handed me back what the Indian should have, and I counted it and handed it to the Indian, telling his interpreter to tell him just what the sum was. Now, for instance, No. 75 had $338 21, Blunt's claim was $112 73, and the store-debt was $40, which left the $185 48. It passed through these forms. I took my seat there because I had heard so much about cheating the Indians that I wanted to see how the thing was, and I thought I would rather be figuring and watching than sitting there idly.

By Mr. BECK:

Q. Could the Indian have taken his money and put it in his pocket and gone out of the house without objection from anybody, if he had wanted to?—A. I think that the chiefs and interpreters would have called him back if he had. It seemed to have been all pre-arranged; it was all understood by the agent, by Blunt, and by the store-keeper; it was thoroughly arranged the day before any of us got there; they told us that it was; they had every sum on the book arranged on purpose to show what the store-bills were, so that there would be no delay about it, and it was proceeded with pretty rapidly, in consequence of everything being systematically arranged.

Q. The common run of the Indians could not have got the full amount of their money from the agent and gone off without settling the 33⅓ per cent. commission to Blunt, and without settling the store bills, without being called back?—A. Undoubtedly they would have been called back.

By Mr. LAWRENCE:

Q. Who was the agent?—A. George Mitchell.

Q. Was all this done with his approval?—A. Yes; I think I can say that without doubt.

By Mr. SARGENT:

Q. Is he still in the service?—A. Yes; that thing was all arranged the day before Williamson got there.

Q. Did Mr. Williamson seem to approve of that course or to object to it?—A. Mr. Williamson said, just as he has stated here, that he had nothing to do only to pay the Indians.

Mr. WILLIAMSON. And I objected to the course?

WITNESS. Yes, I think you did.

Mr. Lang, one of the commissioners, was present, and protested against the payment of General Blunt of the $30,000 out of this $90,000 in every way he could, and so did Mr. Hoag, the superintendent of the Southern Indians. General Blunt testified to the payment to him of $30,000 out of this payment, and claimed that it was his fee as previously agreed upon with the Indians and their chiefs, for services in obtaining the treaty and appropriations from Congress, the contracts having been obtained, in many instances, for him by the present agent, and by the former Indian agent, Mr. Snow. While the committee were not instructed to inquire into any other payments except that made to the Quapaws, information having been laid before them that large sums had been paid to General Blunt and others out of the payments made to the Choctaws and Chickasaws, they interrogated General Blunt on that subject. The following extract from his testimony is taken from pages 55 and 56 of the evidence accompanying this report:

Q. You spoke of your connection with the Choctaws and Chickasaws?—A. Yes.

Q. How much was paid you for that service?—A. The Choctaws paid me forty per cent. and the Chickasaws fifty per cent.

Q. Of what sums?—A. The Chickasaws got $150,000, and $25,000 were taken out of that, and then I got 50 per cent. of the balance. Twenty-five thousand dollars were taken out of the $109,000 for the Choctaws, and I got 40 per cent. of the balance of that.

Q. Do you know how much of the remainder was taken out by others before the Indians got their portion?—A. The money was presented to the Indians, and they settled with me in the same way that the Quapaws did; they came to me directly. I was present at the payment, and when they got their money they came and paid me.

Q. Was there not a large number of claims taken away from the Indians there also?—A. No, sir; there were no claims taken out there. There were some parties on the ground at the payment, but they were not at the pay table. I was not present when the settlement was made with them. There were some few merchants who had sold them goods on trust, and they were there to collect the money.

Q. Who was the agent at that time who made the payment?—A. He was a special agent, named S. S. Smoot.

Q. Did you go there with Mr. Smoot?—A. Yes.

It will thus be seen that out of the payment of $125,000 to the Chickasaws, General Blunt received $62,500; out of $84,000 to the Choctaws he received $33,600, and out of $90,000 to the Quapaws, $30,000; in the aggregate $126,100, out of payments amounting to $299,000. As it was not believed to be of sufficient importance to delay the presentation of this report, the committee did not attempt to ascertain how much was paid to the traders, which could only have been learned, if at all, by sending for witnesses from a distance at great expense; and as neither General Blunt's conduct, nor that of the agents now out of the employ of the United States, nor of the traders, can be investigated by Congress for any other purpose except to prevent the repetition of such extortion and misconduct in the future, the committee think they have performed their duty by calling attention to the facts and the existing laws, and by suggesting such legislation as will prevent a repetition of these things, as it is fair to presume the cases to which the attention of the committee have been directed are only specimens of the whole.

The act of March 3, 1847, 9 Statutes at Large, page 203, after prohibiting the making of payments until all possible safeguards against drunkenness are thrown around the Indians, provides that "all executory contracts made and entered into by any Indians for the payment of money or goods, shall be deemed to be null and void, and of no binding effect whatsoever."

The act of July 21, 1852, section 3, 10 Statutes at Large, page 24, provides "that no part of the appropriations herein made for the benefit of any tribe, or part of a tribe of Indians, shall be paid to any attorney or agent of such tribe, or part of a tribe. * * * Nor shall the executive branch of the Government hereafter recognize any contract between any tribe, or part of a tribe, and any attorney or agent, for the prosecution of any claim against the Government under this act."

The act of August 30, 1852, 10 Statutes at Large, page 56, is substantially a repetition of the last-recited act.

The defect in each of these laws is the failure to provide adequate punishment for the violation of them; the precept is right, but the sanction is wanting. "Thou shalt not steal" is a good commandment, but without provision for the punishment of those who violate it, it would avail little. Your committee therefore recommended the following provision, which was made part of the Indian appropriation bill by an almost unanimous vote of the House, and they are glad to find it has been substantially adopted by the Senate:

> That hereafter no contract or agreement of any kind shall be made by any person, with any individual or tribe of Indians, for the payment of any money or other thing of value to him, or any other person, in consideration of services, or pretended services, for said Indians relative to their lands, or to any claims against annuities from, or treaties with, the United States; and all such pretended contracts or agreements hereafter made are hereby declared null and void, and all money or other thing of value paid to any person by any Indian or tribe, or any one else, for or on his or their behalf

on account of such pretended services, may be recovered by suit in the name of the United States in any court of the United States, regardless of the amount in controversy, one-half of which shall be paid to the person suing for the same, and the other half shall be paid into the Treasury of the United States, for the use of the Indian or tribe by or for whom it was so paid; and the person so receiving said money, and his aiders and abettors, shall, in addition to the forfeiture of said sum, be subject to prosecution for misdemeanor in any court of the United States, and on conviction shall be fined not less than one thousand dollars, and imprisoned not less than six months; and it shall be the duty of all district attorneys of the United States to prosecute such cases when applied to to do so, and their failure and refusal shall be ground for their removal from office. And any Indian agent, or other person in the employment of the United States, who shall advise, sanction, or in any way aid in the making of such contracts or agreements, or in making such payments as are here prohibited, shall, in addition to the punishment hereby imposed on the person making said contract, or receiving said money, be, on conviction, dismissed from the service of the United States, and be forever disqualified from holding any office of profit or trust under the same.

Your committee are not aware that anything can be done to punish those who have heretofore extorted money from the Indians, or aided others in so doing, except to cause strict inquiry to be made into the conduct of such of these persons as are still in the employ of the Government, and dismiss from the service all who have knowingly violated the law. It is but just to say, that so far as these payments are concerned, the Commissioner of Indian Affairs is in no way responsible.

ERRATA.

On page 7, in ninth question, read "J. A. Morrow" instead of "J. A. Morrill."
On page 8, at the end of fifth answer, add "(See page 80.)"
On page 11, last line, insert "page 159" after "appendix" in parenthesis.
On page 12, in tenth question, read "J. A. Morrow" instead of "J. A. Morrins."
On page 13, in sixth line, read "commissioner" instead of "commission."
On page 22, after eighteenth question, read "By Mr. Sargent" instead of "By the Chairman."
On page 36, in parenthesis at bottom, after "referred" substitute "in the appendix."
On page 46, in parenthesis after fifth question, after "are" substitute "in the appendix."
On page 51, after "James G. Blunt sworn" omit "by affirmation."
On page 56, near bottom, read "By Mr. Beck" instead of "By Mr. Peck."
On page 187, in table, twelfth line from foot of page, read "John N. Ely" instead of "John N. Eby."
On page 188, tenth line from top of page, in J. W. Bosler's account, read "Buckly, Welling & Co." instead of "Buckly, Willy & Co."

INVESTIGATION INTO INDIAN AFFAIRS.

PAYMENT TO THE QUAPAW INDIANS.

COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES,
Washington, D. C., January 17, 1871.

JOSEPH A. WILLIAMSON sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. I am a clerk in the office of the Secretary of the Interior, having charge of the Indian trust fund.

Q. Did you some time since convey an amount of money to the Quapaw tribe of Indians; if so, when, how much, and where?—A. During the month of October last I conveyed from the sub-treasury, in the city of St. Louis, Missouri, $90,000, reaching the Quapaw agency on the 14th day of that month, in the morning.

Q. Did any one accompany you?—A. Mr. Jocknick and Mr. Pilkinton accompanied me from Santa Fé; they were of my own party. In addition to that party there were, starting from the stage-house at Seneca, General Blunt and a gentleman named Mr. McBratney. They were there when I got to Seneca from St. Louis. Seneca is about four miles from the Neosho agency, just outside the reservation, in Missouri.

Q. State under what circumstances you paid the money to the Indians, how many Indians were present, and who else besides the Indians.—A. When I was at Seneca, that morning at my breakfast, General Blunt came to the breakfast table and spoke to me, and after a minute or two he said, "I was out at the Neosho agency yesterday, and we had quite a talk there. I made a speech and argued my own case to the Indians, and got all I wanted." I expressed my surprise at that, and when I got to the Neosho agency the first question I asked was whether it was true.

Q. Asked of whom?—A. I asked of Mr. Lang, one of the commissioners. I asked him if the speech or talk had been made, and he replied to me that it had been. I saw the situation in an instant, and asked for a private conference with Superintendent Hoag, Mr. Lang, Mr. Earl, Mr. Nicholson, and two others, all being members of the Society of Friends, and connected with Indian affairs. We had that conference in a room by ourselves. Recognizing the fact that under the act of July 15, 1870, the only supervisory power over the grant was with Mr. Lang, I made up my mind to follow out my instructions, and not to diverge one hair's breadth from them; and I read my instructions in the presence of those gentlemen. After reading them Mr. Hoag suggested that I should take the $30,000 claimed by General Blunt and put it in my pocket. He said that he would do it, if he were in my place, and would throw the responsibility back on the Department. I told him that I could not do that as a disbursing officer; that I was bound by solemn oath to obey my instructions; that these instructions were very severe, and that if I departed from them I would be regarded and treated as an embezzler.

Q. You understood your instructions to be to pay the money to the Indians?—A. Decidedly so, sir. Mr. Lang said that he thought I was carrying out my instructions to the letter, but not according to the spirit. Mr. Earl and Mr. Nicholson stated that they thought I was right in carrying out those instructions just as I said I would do. I then asked Mr. Hoag why he did not send away the Indians to have a council and to let them determine for themselves, and not to let any one interested approach them. He said he had no power over those Indians; that Blunt had all the power, and that Blunt had made this speech. Still recognizing the fact that Mr. Lang was the supervisory commissioner there, I stated that my duty was plain, and that I should proceed according to my instructions, and that from them I would not vary. Secretary Cox had told me that Mr. Lang and Mr. Vincent Colyer would supervise my paying the Indians. There was some discussion afterwards. Finally the hour of dinner arrived, and I begged these four gentlemen to remain and look after their branch of the business. Mr. Hoag said that he could not stay because he had to go to the Miami settlers. Mr. Lang said that he would stay, and the two gentlemen who accompanied him said that they would stay. After dinner we proceeded to the pay-house, which was just a few steps off from the house we were then in. On arriving at the pay-house I found that General Blunt, Mr. Earl, a trader, and an agent had occupied the back part of the room. I at once said that I would have nothing to do with their part of the

business; that that was totally outside of my instructions, and I had nothing to do with it.

Q. What part of the businsss?—A. This arrangement for the payment of General Blunt. Some one replied, (I have forgotten now who it was,) "It is your duty to see to the interests of the Indians." I said, "Gentlemen, I can have nothing to do with that; our party is a totally distinct party from that; my instructions will be carried out to the letter." I then walked in front of the pay-house, where those Indians, to the number of about two hundred, had gathered on the lawn, and I read to them the articles of the treaty authorizing this payment, and explained through an interpreter what it was for, and also what my instructions were, stating that I would recognize no attorney or trader at all in the business. I then proceeded to the payment in the way in which I have always paid Indians. First the name of the Indian was called out with the number of the claim and the amount due him, so that all could hear it, I having the principal chiefs right by my side, and Mr. Jockinck being just at the other side, so that the Indians would have to go to him first to get the ticket, on which was the number of the claim and the amount due to them. The Indian was then brought forward and identified by the chiefs and the interpreter. He then touched a pen, which is the Indian way of making a signature, and was handed this ticket, which I took, and counted out the money in full to him. In order that there should be no mistake, the Indian took it to the agent, who counted it again, which was a protection to the Indian and to me also. There my duty under my instructions stopped.

Q. You gave into the hands of each Indian the amount of money due to him?—A. Yes, sir; and that afterwards was counted in the presence of the chiefs and the headmen of the tribe and the interpreter, by the agent.

Q. What took place after that was done?—A. Immediately after the agent counted the money General Blunt would make his claim of 33⅓ per cent. on the whole amount. The calculation was made by Mr. Earl and the agent as to how much was to come to Blunt, and that was deducted from the amount held by the Indian and paid over to General Blunt. The amount of the trader's claim was also deducted and paid to the trader, and the balance was retained by the Indian. That was, as well as I understood, the operation. Several times during the proceedings I lost my temper somewhat, and spoke of this thing and protested against it in the name of the Government. I was replied to again that it was best for the Indian that the matter should be treated in this way, so long as it had gone that far.

Q. Who said that?—A. I think that at one time the agent said it, and I think that another time the agent also said it and Mr. Earl coincided with him. I am not sure, however, about Mr. Earl; but that is my impression. At any rate, that plan seemed to be acquiesced in by the gentlemen in that end of the room. Finally, after I had spoken several times, I found that I had just simply to submit to the delay, especially as I had received from Secretary Cox the assurance that if I squared up with the Indians, and if they afterward threw the money into the Arkansas, it was not the business of the Government. But it is just to Secretary Cox that I should say that when I went to him for general directions he said, "There is one thing which I wish to impress on your mind, and that is, that you allow General Blunt no privileges." That was why I was startled when I heard that this speech had been allowed the day before the payment while I was not there.

Q. What was the amount received by the trader?—A. I cannot tell you; I do not know. Mr. Earl, I believe, took down the amounts in his book. I had nothing to do with that, for I really kept my own part of the business clear from it.

Q. You say that Blunt received 33⅓ per cent of the $90,000?—A. Yes, sir; there is no question on my mind about that.

Q. Who was the agent?—A. Mr. Mitchell.

Q. What did Mr. Lang have to do with the matter? what was his office?—A. He was commissioner of the Board of Indian Affairs. I did all that I could to get those gentlemen there under the instructions from the Department. My instructions were these: I was to make the Creek payment, and at that time I was only to make the Creek payment. Mr. Lang and Mr. Colyer, as I understood Secretary Cox, were to be present at that particular payment. There were particular reasons why I should go there, and there were particular reasons why they should be there, owing to certain discoveries made in the Department. I think you ought to know that General Blunt was on my bond, and the reason why he was on my bond.

Q. State concisely how he happened to be on your bond?—A. About the middle of August the Secretary sent for me and said, "Mr. Williamson, I have determined to send you to the Creek agency, to make the Creek payment to the loyal refugees and freedmen." I objected in toto, saying that it was a dangerous and a responsible trip, and that, no matter how honestly an agent did his business, he was subject to censure. He replied to me, "Under the peculiar circumstances of the Creek agency payment you are the man to go. Mr. Colyer will meet you there and will examine into certain vouchers to the amount of 33 per cent. given in favor of certain parties. If Mr. Colyer is satisfied that those are good vouchers, you are authorized to take $15,000 of this money and

bring it back here, to cover a certain deficiency," (which I had discovered but a short time before.) He said, "General Blunt is the person who is to represent that particular party through whom the default has occurred." Said I, "Mr. Secretary, if that is the case, I think it is my duty to find out all that I can," and I instantly applied to General Blunt to go on my bond for a hundred thousand dollars for that particular payment. My reason for doing that was simply this, that as I had to take a hundred thousand dollars through a dangerous country, and as General Blunt was an interested party, and as others were interested, I felt that they should bear that burden, and not an innocent party, if any one was to suffer or if the money was to be lost. At that time it was not known that I was to make the Quapaw payment, nor did I know it myself. The Secretary agreed to that; he understood it perfectly. He sent me down to make the Creek payment. I found that the commissioners had not waited for me at St. Louis or at Baxter Springs, and I telegraphed to Mr. Lang and Mr. Colyer to meet me. I got there on Saturday, and I held back the payment until Monday, in the hope that the two commissioners would get up with me. I found great excitement there. There were two parties of Indians, one declaring that they would pay those vouchers, and the other declaring that they would not, and there was very bad blood. I waited until 9 o'clock on Monday morning, and I then got up and made a speech and sent the Indians off into council, where they decided that they would not pay this claim. That settled the question, and I went on and paid them without any difficulty at all, and not an attorney or a trader got a dollar. That was the reason why I applied to General Blunt to get him on my bond; he did not apply to me.

Q. Is General Blunt on your general bond?—A. Secretary Cox sent for me after that arrangement and remarked to me: "Mr. Williamson, I have decided to give you the Quapaw payment to make." I objected to that. I said, "Mr Secretary, recollect that General Blunt is on my bond." He said, "Mr. Williamson, Commissioner Parker and myself have examined the law on the subject and we find that, as you are in the employ of the Government, you can go without a bond." I said, "If you wish another bond I can go to Pennsylvania to-night and get a bond; but as it is I will get another person on the bond," which I did, for $50,000. He said that there was no necessity of my going to Pennsylvania. Then I had on the top of that payment $75,000 more put, and then $125,000 more, and on top of that $218,000, making in all $1,009,000, which I disbursed. That is the history of Blunt's going on my bond; it had no connection with the Quapaw payment.

By Mr. BECK:

Q. You paid these Indians $90,000?—A. Yes, sir.

Q. Thirty thousand dollars of which went to General Blunt at the same time?—A. So I heard.

Q. About how much did the trader get?—That I cannot say, because I took no notice of it.

Q. What was that money paid to the trader for?—A. Agent Mitchell met me as I was proceeding to the pay-house and said that he had some orders payable to traders, which I ought to recognize, because they were for provisions given when the Indians were near starving. I said that if an angel from Heaven asked me to pay a trader I would not do it.

Q. Were the Indians obliged to make these payments to General Blunt and the trader; could the Indians have got off without making these payments?—A. O, yes, sir; I am perfectly satisfied about that, because I told them in my speech that it was their own money, and that they could do just what they pleased with it. I was very cautious in that respect, in my speech to them, to tell them that the money was theirs.

Q. And you think there was no attempt to make them understand that the payments to General Blunt and the trader were part of the programme?—A. I am satisfied of that from what I heard.

Q. And whatever payments they made, they made voluntary, with the full knowledge that they need not do it unless they wanted to?—A. I think so; I would not like to say, but that the speech of the day before had its moral effect upon them.

Q. I want to know whether they made these payments to General Blunt by coercion?—A. Not what I saw; my back was to them. From the first I was earnest in my protest against that part of the business.

By Mr. SARGENT:

Q. Did Blunt, at any time during that scene, state what the $30,000 were for?—A. No, sir; not in my presence.

WASHINGTON, D. C., *January* 17, 1871.

GUSTAVUS P. JOCKNICK sworn and examined.

By Mr. SARGENT:

Question. Where do you live?—Answer. In this city.

Q. What is your occupation?—A. A clerk in the office of the Commissioner of Indian Affairs, in the Interior Department.

Q. Did you accompany Mr. Williamson to the Quapaw agency?—A. I did.

Q. State concisely what took place there within your observation.—A. We left Seneca, on the borders of Missouri, on the 15th of October, and proceeded to Neosho agency, some three or four miles from there. Mr. Lang and Mr. Nicholson were there before us, staying with Mr. Mitchell, the agent. General Blunt left Neosho at the same time that we did, and after arriving, say about 8 or 9 o'clock in the morning, there was a conference held in one of the buildings of the agency, which was protracted some time. Payment was deferred till the afternoon of that day. I was not present at that conference, but I understood that Superintendent Hoag, of the central superintendency, Mr. Lang, doctor, and Mr. Williamson, were present. Afterward we proceeded with the payment. The payment took place in a building occupied as the agent's office. There were three tables placed in it. The one in the center of the room was occupied by Mr. Williamson, the one near the door was occupied by myself, with the rolls, and the one at the further end of the room was occupied by General Blunt, a trader at Seneca, whose name I do not recollect, and a part of the time by Mr. Earl and Dr. Nicholson, and during the whole time by Agent Mitchell; also by Mr. Snow, who formerly had been agent of the Indians. The payment proceeded in the same manner as we had previously made payments. An interpreter was at the door who called the names of the Indians. As I called them out from the rolls he repeated the names. The Indians came up, came into the room, and the chiefs who were present identified each Indian as being the person named. Then I gave to the Indian a ticket for the amount placed opposite his name. The Indian took this ticket to Mr. Williamson, who handed him the money which the ticket called for, and directed him to take it to the agent, Mr. Mitchell, to be counted over again; and so we proceeded until the whole payment was completed on the evening of the following day. It took one day and a half to make the payment.

Q. What became of the money after it was paid to the Indians?—A. From the way in which I was placed in that room with my face toward the door, and constantly occupied with my rolls and making out tickets, I could not pay any attention to what was going on at the table at the further end of the room. It was only occasionally when I looked back that I could observe what was done. I noticed that the money was placed in the hands of the agent and counted by him, and that he then put the money in the hands of those two gentlemen, Mr. Earl and Doctor Nicholson, members of the Society of Friends.

Q. What did they do with the money?—A. They counted it, and there it was divided. General Blunt received a share, and the trader received a share, and the balance was placed in the hands of the Indian.

Q. Who handed the money to Blunt and the trader? Was it the Indian or was it any white person?—A. The Indian. The money was first placed in the hands of the Indian by Mr. Williamson, who directed the Indian to go to the agent to have it recounted. The agent, after counting it, handed it to Mr. Earl and Doctor Nicholson, to be counted over again by them. That is as far as I observed.

By Mr. BECK:

Q. Who counted Blunt's share to him?—A. I cannot say who put that money in the hands of Blunt. I was sitting near the door with my back toward him, and I was incessantly engaged with my rolls.

By Mr. SARGENT:

Q. Did you hear General Blunt make any statement in that presence of the service which entitled him to this money?—A. Not in that presence. In conversation with him I may have heard him say so, but not in that presence.

WASHINGTON, D. C., *January* 17, 1871.

JOHN D. LANG sworn by affirmation and examined.

By Mr. SARGENT:

Question. What connection have you with the Indian service?—Answer. As one of the President's commissioners, one of the ten.

Q. Were you present at the payment to the Quapaws; if so, how came you to be there, and what did you observe in connection with it?—A. The cause of my being there was from a special telegram from Secretary Cox to me while I was on my return home from the settlement of the Osages. Before I reached my home, I had a telegram

that Secretary Cox wished me to return and attend to the Creek payment, and the Quapaw payment, and the other payments that were coming on, if I could attend to them. I telegraphed to Vincent Colyer to meet me on my way home in Philadelphia, that I might ascertain what was expected of me. I had been out a long while and was weary, and did not want to go back again. He met me according to appointment, and I found that the condition of my family was such that I must return home to Maine. I returned home as quickly as I could, stopped at home a day or two, and went on immediately, night and day, until I got to the Creek payment, which was then just commencing. I expected to find special instructions in St. Louis in care of the postmaster, and for fear that there might be some mistake about it, I went to Washington to see the Secretary. He was absent, and I went to see the clerks of his Department, who searched for copies of letters, to the effect which I expected, but they found none. I proceeded immediately on to St. Louis, and made the inquiry there of the postmaster, and waited over a part of the day so as to let the last mail come in, but I got no letters, and went on immediately to the Creek payment. That payment was conducted well, and I certified to the same. I found that Paymaster Williamson had instructions from Secretary Cox. When that payment was got through with he had to go to St. Louis to spend perhaps a week to get the rest of the money, as he said, to pay to the Quapaws; and I went on to visit the Indians by the way. I went to the Quapaw tribe, and made all the examination I could into their condition. I ascertained their condition as well as I could until the time came for Williamson to come back. He did not got back as soon as was expected; but the day that he was expected back, we being at Baxter's Springs, I got an intimation that there was likely to be trouble there about this Blunt matter, and that Blunt was claiming a portion of the money. I was alone there, and I saw that there was no one who could be reached in the matter except Mr. Hoag, the superintendent, whose duty it was to look after the interests of the Indians. I went to the telegraph office and telegraphed to him in a very pressing manner for him to come on immediately without fail. He started off the next morning, and, as I understood, just as he was getting into the cars, William Nicholson, the one spoken of here, was about getting out, and Mr. Hoag mentioned to him that he had got a telegram from me, and that there was some great trouble, but that I said nothing about what it was, except that he was to come on immediately. He came in the evening, and I met him at the cars. We talked the matter over, and I told him what I had heard since I had arrived there from persons who knew the Indians. I had agreed that afternoon to send for some of the principal men of that Quapaw tribe and the interpreter, who was said to be a most influential man. I talked with the interpreter on the subject, but I could get nothing out of him, except that that was a settled matter. My advice to him was that it would be a very sad thing for them to have anything of that kind take place, because it would be to their injury to have their money wasted. The man said he would do what he could about it, and he left it in a very indefinite manner. We started the next morning to the Quapaws, taking dinner at Seneca, and not getting to the Quapaws until the afternoon. We found some persons there. I think Blunt was not there, nor any of these men who appeared afterward, but they came early the next morning, before Williamson got there. Blunt had been at the other payment, but nothing was said about his taking anything from the Quapaws that I remember. This matter was talked over between Hoag and me, and I gave my strong reasons and opposition against anything being paid in that way to Blunt. The paymaster came, I think, about ten o'clock in the morning.

Q. Before Williamson came there did Blunt make a speech to the Indians in your hearing?—A. As to the time I feel a little lost as to the exact time, but I think he made the speech in the forenoon. I heard it myself. I will not say whether it was before Williamson came or not.

Q. State what Blunt said in that speech.—A. He called the Indians together and got up, and said that there had been some stories about his having something from the Indians, and that he was not going to deal with them, or that he had not dealt with them well; and he wanted to inform the people who were there and the Indians about it. He then stated that it was said he was about taking a good deal from the Indians, and he went on to give his reasons about it. He said he had done a good deal for the Indians, and that they had agreed to pay him a certain amount for it. I think he stated that it was one-third part. He said he had made a fair bargain with them. He had his powers of attorney, as he called them, and he handed them around to us—to me first—that we might look over them. I looked at a few of them; but there they were passed around and the others looked them over. I asked the question when these powers of attorney were made. The papers showed the date; they were made a year before. I asked the agent, Mitchell, if he had witnessed these papers, and he said yes. I said, "The Government agent witnesses such papers as these!" He seemed to be very much astonished at what I thought about it. I told him that it was a very sad thing that he should witness any instrument of that kind as a Government agent. The thing passed off, and no more was said about it. I made some comment on his course in this matter. I felt it very much, because I had seen the condition of the Indians, and that

they were very poor and destitute and suffering, and I felt very sad about it that they should have what little money they were entitled to taken away from them. I so expressed myself to Blunt. Blunt seemed to say something in regard to some other persons who had circulated these stories around; and in his speech to the Indians he said: "Friend Lang seems to think that I am getting a good sum—an extravagant sum; but it is not so much that I shall get. I have paid out already $6,000 to get this bill through;" speaking of the Government, as I thought, in a derogatory manner. He said that a pressure had to be brought upon the Government to get the claim passed. He said that it was an honest debt, but that a pressure had to be brought upon the Government to pay it; that he had spent $6,000 in it, and was expecting to be called upon for $10,000 more, and that would leave him but a small sum comparatively.

Q. What did he say about the persons to whom he had paid that money?—A. I do not recollect his saying anything about that to me. He had conversation with other friends there.

Q. Did he say anything about spending money to get the claim through Congress?—A. He said he spent $6,000 to get the claim through; that he had spent $6,000 already, and expected to be called upon for $10,000 more.

Q. Did he say that the expenditure of that $6,000, and the prospective expenditure of $10,000 more was to Congressmen, or for the purpose of influencing Congressmen?—A. I do not think he did to me.

Q. Did he in that speech?—A. No. This communication was merely addressed to me in that feature of it, in answer to my complaint of the amount which was going to be taken by him.

Q. Are you now speaking of a private talk with him or of the speech to the Indians?—A. It was no private talk. As he was speaking to the Indians, he seemed to direct his attention to me, and called my name out, saying that I thought this was a very great sum for him to get, but that he had paid $6,000 out, and that he expected to be called upon for $10,000 more. In his address to the Indians, in my hearing, he said something like this: "You have never gone back on me, and you will not now, will you?" And the interpreter replied they would not.

Q. Did the Indians make any exclamation in their own language when the interpreter spoke for them?—A. I do not think they did. The interpreter was a sergeant in the Army with Blunt during the war.

Q. The interpreter answered for the Indians without their making any exclamation?—A. Yes; they made none that I remember.

Q. You have heard the testimony of the other witnesses in relation to the manner in which the payment was made. Do you know anything additional to or differing from what they said?—A. I think they stated it pretty nearly as it occurred.

Q. If you know anything additional to or differing from their statements, you may state it.—A. I heard a part of Paymaster Williamson's testimony. What I observed about the manner of payment was this: It was a very small building; and when I went to see how the thing was arranged, I found that the whole building was filled up. I do not think I was in the building after the payment was commenced. I only staid for awhile at the door. The building was filled up. Mitchell and Blunt and some friends were at the table toward the end of the room.

By Mr. BECK:

Q. What building was it?—A. It looked as though it might be a little shop or store house.

Q. Was it a Government building?—A. Yes; I presume so.

Q. Is it a building where anybody had a right to be without the paymaster's consent?—A. I suppose nobody had a right to go in except Government officers.

Q. Could either General Blunt, or the traders, or anybody else have gone there without the consent of the paymaster, or of a United States officer?—A. No, sir; they had no right there without the consent of the paymaster.

Mr. WILLIAMSON. It was under the control of the agent.

By Mr. SARGENT:

Q. Who could control the matter; the paymaster or the agent?—A. The paymaster could do it or the agent could do it. The paymaster had done it in other cases. He excluded people at the payment of the Creek Indians, and he could have done it there, and so could Mitchell, the agent.

By Mr. LAWRENCE:

Q. I suppose there was no particular place where the paymaster was bound to pay the Indians?—A. No, sir.

Q. He was not bound to pay them there if it did not suit him?—A. No, I suppose not. It troubled me so much that I came away; I did not seem to have anything to do after I desired the paymaster to suspend payment until he could hear from Washington.

By Mr. BECK:

Q. What was that last suggestion you made: did you desire the paymaster to suspend the payment until he could hear from Washington, owing to this claim set up by other parties?—A. Yes, sir.

Q. State what took place on that subject.—A. I manifested my feeling about its being wrong and unjust, and we talked it over to see whether we could arrange anything about it. My statement was to the paymaster that if the money was in my hands, I would not pay it. Hoag and myself agreed in the matter that if the money was in our hands we would suspend the payment until we could hear from Washington. The paymaster stated that he had had a private conversation with Secretary Cox almost the last thing before he left Washington, and that Secretary Cox told him that he wanted him to pay the money into the hands of the Indians, even if it was thrown into the Arkansas afterward. That seemed to be his argument against suspending the payment, and, therefore, he thought that under the circumstances he must go on with it.

Q. Did you make any suggestion about retaining in his hands the portion claimed by others?—A. This was one of the propositions in the course of canvassing the matter. I looked at this point, that the Indians were needy, and that if their two-thirds was paid out to them, the other third claimed by Blunt could be retained. I said, as a commissioner, that I could not consent to its being paid to Blunt if it was in my power to stop it; but when the paymaster made this statement as to what Secretary Cox told him, (and it appeared to me that he was honest in it,) we had nothing to do but to let him go on with the payment. I had nothing to do with the other Friends who were there, and I differed in opinion with them. Nicholson stated that he thought the promises of the Indians ought to be fulfilled. I considered that they were wards of the Government, and that they ought not to waste their money, and that, if they wasted their money in that way, Congress would withhold appropriations in the future. That was my view of it. It was stated there that, but for Blunt, the Indians would have lost the whole of it. Blunt said so, and they were willing to pay him for it.

WASHINGTON, D. C., *January* 17, 1871.

VINCENT COLYER sworn and examined.

By MR. SARGENT:

Question. You are secretary of the Indian commission of ten?—Answer. Yes.

Q. A contract for beef, bacon, flour, and other articles was made on the 17th of June, with J. W. Bosler, for a large quantity of those articles to be delivered on the Missouri at different stations. The contract was for goods to be delivered on the 15th of July, the 1st of August, and the 1st of September, 1870; was your commission consulted with reference to the making of that contract, or called upon to make any inspection of the goods delivered under it?—A. Not that I am aware of. I think if it had been, I should have known of it.

Q. Are you familiar with all the operations of the commission; is it your duty to be so?—A. It is; and I am.

Q. There was an extension of that contract on the 10th of August by which fifteen hundred thousand pounds of beef was ordered to be delivered at the same agencies. Was your commission consulted in reference to the extension of that contract, and as to the prices to be paid under it?—A. No, sir; it was not.

Q. Were you called upon to inspect any of the goods?—A. No, sir.

Q. A contract was made on the 17th of September, with J. A. Morrill, for the delivery of a number of millions of pounds of beef on the hoof. Was your commission consulted in reference to the prices to be paid under that contract?—A. No, sir.

Q. Or as to the making of the contract, or as to the expenditure of the money?—A. No, sir.

Q. Was the commission required to inspect the cattle delivered, ascertain their weight or number, or anything connected with it?—A. No, sir; nothing whatever.

Q. A contract was made with a transportation company on the Missouri River by which certain prices were to be paid for the transportation of Indian goods up the river, and also by wagons, if necessary. Was your commission consulted with reference to that contract, or any expenditure under it?—A. No, sir.

Q. In the Indian appropriation bill for the fiscal year ending June 30, 1871, passed July 15, 1870, there is the following provision: "It shall be the duty of said board of Indian commissioners to supervise any expenditure of money appropriated for the benefit of the Indians in the United States, and to inspect all goods purchased for said Indians in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult with the said commission in making purchases of said goods." Was your commission called upon to perform its duties under this section, by the Commissioner of Indian Affairs, in any of the contracts to which I have alluded?—A. No, sir.

Q. There was a further contract made with J. W. Bosler for the delivery of a large amount of bacon in Chicago, on the 26th September, 1870. Was your commission consulted as the making of that contract?—A. No, sir.

Q. Was it called upon to inspect any of the goods?—A. No, sir.

Q. To ascertain their weight or whether the contract was carried out in any respect?—A. No, sir.

Q. In voucher No. 8, furnished by the Auditor, there is an item for an amount paid to Ezra Taylor, for inspecting bacon, $132 50; was Ezra Taylor one of your commission?—A. No, sir.

By Mr. BECK:

Q. By section 4 of the act approved April 10, 1869, two million of dollars was placed in the hands of the President, for the purpose of maintaining peace and promoting civilization among the Indians. That section contains this clause: "And for the purpose of enabling the President to execute the powers conferred by this act, he is hereby authorized, at his discretion, to organize a board of commissioners, to consist of not more than ten persons, to be selected by him from men eminent for their intelligence and philanthropy, who may, under his direction, exercise joint control with the Secretary of the Interior, of the disbursements authorized by this act." Did the President organize a board under this act?—A. Yes.

Q. State what authority the President, under that act of April 10, 1869, conferred on the board.—A. That can be better answered by referring to the President's own executive order, which will be found in our report of last year, and which I will furnish to the committee. The powers were general and yet pretty thorough. It was distinctly laid down that we should be made acquainted with the general transactions of the Commissioner of Indian Affairs in the expenditure of that $2,000,000. The order covers that.

Q. What I want to get at is this: Any contract made by the Commissioner of Indian Affairs with Bosler on the 17th June came under the provisions of the act of April 10, 1869, and not under the provisions of the act of July 17, 1870?—A. Yes, sir.

Q. Did you understand that it was made by the executive order the duty of the Commissioner of Indian Affairs, when he made the contract with Bosler on June 17, 1870, to consult and confer with your commission in any way before he made it?—A. That would be my interpretation of the President's order, but it had not been the practice of the Commissioner to do so.

Q. And in that contract it was not done?—A. It was not done.

Q. You had no connection with the contract or with the prices paid under it?—A. No, sir.

Q. Have you seen that contract?—A. I have seen it since. I saw it only lately.

By Mr. SARGENT:

Q. Was there any reason, such as the absence of the board, why it could not be consulted about that contract?—A. No, sir, there was no reason. A sub-committee of our commission was named to regulate purchases. It consisted of George H. Stuart, and William E. Dodge, and several other gentlemen. They did not go on the tour of inspection into the Indian country, but remained at their offices in Philadelphia or New York, where they could have been consulted at any time by the Commissioner.

Q. Has the Indian commission in any way acted under that section of the law?—A. Yes, sir.

Q. To what extent?—A. In the matter of the purchase of annuity goods in New York on the 21st, 22d, and 23d of July.

Q. What class of goods were they?—A. What is known as annuity goods—dry-goods, clothing, hats, shoes, blankets, cloaks, &c.

Q. And did your board inspect all of these goods purchased since the passage of the last appropriation bill?—A. We inspected the great bulk of what was advertised for, but there were other goods afterward purchased as presents and sent out to the Indian country which we did not inspect.

Q. Were you called upon to inspect them?—A. Not that I know of.

Q. Do you keep the records of the board?—A. Yes, sir.

Q. Would there have been a record of it if inspection had been made?—A. I think there would be. I should have heard of it. The presents that were purchased were purchased some little time after the commission had made their great purchases in the latter part of August.

Q. Do you know how the prices and quality of the goods inspected compared with those bought without inspection?—A. The contrast was very marked. The method of advertising under our superintendence was changed from the old method. By the old method the proposals were worded that the bidding should conform to a specimen in the possession of the Department. Our committee on purchases conceived that that was a disadvantage to many of the manufacturers; that it gave the manufacturer of that particular article of which there was a sample in the Indian Department an advantage over other manufacturers, because those that bid had to have goods conforming to that particular sample. The committee changed this and made it so that every merchant or manufacturer should bring in his own samples and his prices, and the committee could thus judge between the goods presented for their examination and between

the prices, and they purchased those which they thought best and cheapest for the Indians. The committee not only changed the mode of advertising, but took special pains that the advertisements should be in the papers longer than usual, and should be generally circulated. They extended the time for the advertisements, and also took pains to see that the advertisements were cut out of papers and copies sent to the most prominent manufacturers and merchants. The committee also addressed circulars to the leading merchants and manufacturers.

Q. What effect had that on the purchases?—A. It had the effect of making more men send in proposals. A better class of bidders were induced to compete: such men as A. T. Stewart, H. B. Claflin, and others. They sent in specimens, and informed us that it had not been their custom, heretofore, to compete for the contracts, as they had no probability of getting them, but that, as they saw there was likely to be fair dealing now, they were willing to take the trouble to send us specimens and prices.

Q. What was the effect, as to the quality and prices of the goods?—A. We purchased our goods at first hands. We bought our blankets from the manufacturer, Mr. Dobson, of Philadelphia; we also bought from H. B. Claflin & Co., and from the manufacturers, at first prices.

Q. What was the result as to quality and prices?—A. The advantage was that we got much better goods at much lower prices.

By Mr. BECK:

Q. What do you know about the urgent necessity that existed, if any, about the 18th of June, 1870, for immediate supplies to be furnished to the Indians of Dakota?—A. Officially I know nothing about it.

Q. Do you know, personally, anything of the kind?—A. No, sir.

Q. Do you know of any exigency that existed which required the extension of the contract in August?—A. I do not know of any, officially, because we were not called upon in any way to say anything about it.

Q. What do you know about 6½ cents per pound being paid for beef under the contract of 17th of June, and about that being a reasonable or unreasonable price?—A. I only know from the statement which I have heard from Chief Commissary Eaton.

By Mr. SARGENT:

Q. Did you see any blankets or other goods in the Osage country of inferior quality—of such quality as would be rejected upon inspection?—A. Yes, sir. We did not see them in the Osage country. They did not arrive there in time, as they ought to have done. We were there three weeks or more negotiating with the Osage tribes, and in the mean time we were waiting for those goods which were to be sent on as presents to the Osages. When the invoices arrived giving the prices of the goods, our attention was called to them by seeing that the price of blankets was considerably higher than the blankets had been offered to us for in New York a few weeks before. We found upon the invoices that there were red blankets there of a certain pattern, style, weight, and number of inches, which were charged at $8 a pair, and which the same house had offered to sell to us in New York at $6 80. Seeing that, we asked Agent Gibson, when those presents arrived after our departure, to see to it that samples were sent on to us at Washington, so that we might see unmistakably that they were the same articles. The samples arrived here a week or two ago, and we found that the blankets which were charged at $8 a pair were the same that had been offered to us in New York at $6 80. We found, also, that the blankets were to be furnished to the Indian Department up to the 20th of August. That was the day when we were instructed to report on the Osage grounds to meet the chiefs, and it was understood that those goods were to be there at that time.

Q. What was the extent of that purchase?—A. Not very large in the blankets. There were 200 of those and 200 of another quality, Mexican blankets, very inferior, which were sent, also, at prices much greater than should have been paid for them.

Q. Who made those purchases?—A. The Commissioner of Indian Affairs, I presume. They may have been purchased after our commission left the office at New York. Those blankets that were offered to us in New York at $6 80 were offered by the house of Amidon, Lane & Co. This firm had as sureties Thomas T. Buckley and Henry J. Marsh, and this Mr. Buckley was of the firm which afterward sold the blankets at $8 apiece.

By Mr. CHIPMAN, counsel for Mr. Commissioner Parker:

Q. With regard to your instructions which you have interpreted, did not your board also claim that it should have the right to disburse all the funds, and was not that the question that was early raised with reference to the duties of the board?—A. No, sir; our board did not claim that.

Q. What was the claim by your board about which some controversy arose?—A. That was before I was a member of the board.

Q. That matter was before the Secretary?—A. I think it was raised by Mr. Welsh, then our chairman; but my impression is that it was not raised by the board.

Q. Prior to the purchase of the annuity goods in New York City of which you have spoken, where were the commissioners?—A. They were at their homes.

Q. Were you not the only one in Washington?—A. I was the only resident member; but there were other members constantly coming here.

Q. Where was the board on the 17th of June, 1870?—A. The office of the board was in Washington.

Q. I speak of the members of the board?—A. They were at their residences, I presume. I was the only one in the city.

Q. Do you recollect whether you were here?—A. Yes, sir; I was here.

Q. When did the members of the board who traveled through the western country depart on that duty; was it prior to the purchase of the annuity goods, or afterward?—A. A portion of them afterward.

Q. Had some of them already been in the Indian country prior to that purchase?—A. Last year they were.

Q. I speak of the Bosler beef contract of the 17th of June?—A. The members were at their homes at that time, but the office was in Washington.

Q. Do you know whether any member of the board, or yourself, ever asked the Commissioner of Indian Affairs for permission to participate in the purchase of beef or of supplies mentioned in the contract alluded to?—A. No, sir; they were not likely to do that.

Q. Did they ever offer to do it?—A. No, sir; I do not think they ever offered to do it.

Q. Did they ever take any steps toward assisting the Indian Bureau in the purchase of annuity goods?—A. Our chairman notified Mr. Parker that the commission was ready to assist him in those purchases.

Q. In what purchases?—A. In the purchase of these goods.

Q. The annuity goods?—A. I presume any goods.

Q. I want the facts?—A. They said they were ready to assist him in his purchases.

Q. When did the chairman make that offer?—A. On the 3d of June, 1870.

Q. Prior to that time you have no knowledge of any offer of that kind?—A. No, sir; there was a standing order to that effect from the President.

Witness produced and put in evidence the letter of 3d of June, 1870, from Mr. Brunot to the Commissioner of Indian Affairs, and the letter in reply of July 18th, 1870. The following are copies of these letters:

"DEPARTMENT OF THE INTERIOR, BOARD OF INDIAN COMMISSIONERS,
"*Pittsburg, June* 3, 1870.

"DEAR SIR: At the last meeting of the Board of Indian Commissioners, I was not able to inform the committee intrusted with the duty of advising with the Commissioner of Indian Affairs in regard to the purchase of goods, at what time the spring purchases would be made and their services required.

"It is desirable that they should have some notice in advance, so as to suit their arrangements to your convenience. I will be obliged to you if you will let me know when you purpose to make the purchases, and to confer with the committee on the subject.

"Please address reply to Mr. Colyer's office, as I expect to be in Washington on Monday, 6th instant.

"Very respectfully, your obedient servant,

"FELIX R. BRUNOT, *Chairman.*

"Hon. E. D. PARKER,
"*Commissioner of Indian Affairs.*"

"DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
"*Washington, D. C., July* 18, 1870.

"SIR: The Indian appropriation bill having been passed by Congress on the 15th instant, I am now able to answer your letter of the 3d ultimo, relative to the time when the purchase of Indian goods will take place.

"I shall be in New York on Thursday, the 21st instant, with a view of making the necessary Indian purchases, and I shall be happy to meet you or any of the commissioners at 10 o'clock a. m., at the Fifth Avenue Hotel, for consultation as to the best method of proceeding expeditiously in this business. The season is so far advanced that no time can be lost in this matter.

"Very respectfully, your obedient servant,

"E. S. PARKER,
"*Commissioner.*

"FELIX R. BRUNOT, Esq.,
"*President Board of Indian Commission, Pittsburg, Pa.*"

Q. Do you know the condition of the Indian Bureau about the time that the appropriation act of July 15, 1870, was passed; whether there was any balance left of the $2,000,000?—A. I know that there was a balance left, because there is still a balance of

that $2,000,000 in the Treasury. I do not know to what amount. Mr. French, the Auditor, told us the other day that there was still a balance remaining.

Q. You spoke of voucher No. 8, which was put in evidence, for the service of an inspector of bacon; do you know anything of the circumstances under which that item was paid?—A. No, sir.

Q. You do not know what service was performed, or under what circumstances?—A. No, sir.

Q. Are all the powers that are conferred upon your board contained in the President's instructions, together with such as are to be derived from the law?—A. Yes.

Q. You have no verbal instructions that you act under, except that order and the law?—A. No other.

Q. Then anything which you have said about your impressions of what your power is are only inferences from the order and the law?—A. Yes, sir.

Q I believe you said that you knew nothing of the contingency under which the Commissioner let the contract alluded to?—A. Not officially.

Q. With reference to the small lot of presents sent to the Osage country, did not the board telegraph to the Commissioner to have them forwarded?—A. Our committee in the Osage country telegraphed two or three times to know why they were not forwarded.

Q. Did not the board know that the Commissioner was making the purchases himself?—A. We supposed they had been made, for I was present at the inspection in New York of the great bulk of the purchases.

Q. You supposed they would be included among your original purchases?—A. Yes, sir.

Q. And you afterward discovered they were not?—A. Yes.

Q. How did you come to telegraph to the Commissioner?—A. We supposed that the purchases had been made.

Q. And then he made the purchases under the spur of your telegram?—A. That we do not know.

Q. You had omitted to purchase them yourself, and after you got West you found that they were not included in your purchases?—A. No, sir, we did not omit anything; it was not our duty to purchase them.

Q. Then the Commissioner has violated no instructions or order in regard to that matter?—A. He did not call upon our board to supervise the purchase.

Q. I understand you that when you were in New York you did not make the purchase of those presents?—A. We did not make any purchase.

Q. I mean you did not supervise it?—A. That is it; we did not supervise it.

Q. And after you got West you found that the purchase had not been made?—A. We found that the goods were not forwarded.

Q. And you telegraphed for them?—A. Yes, and the Commissioner answered us that the goods had been forwarded to such a place from Osage City.

Q. But under what circumstances he made the purchase you do not know; you only know that you did not inspect the goods?—A. And we know that the bill was dated on the 24th of August, and, so far as that bill proves it, we know that the purchase was made on the 24th of August.

Q. Do you know the amount of blankets that were offered to you at $6 80 by that firm of Amidon, Lane & Co.?—A. Not accurately; some two or three thousand pair.

Q. The number that General Parker bought was 200 pair?—A. He merely sent 200 pair to the Osage country.

Q. Might there not have been a difference in price between a large quantity and a small quantity?—A. Yes.

Q. And the inference which you derived about there being something wrong was based upon the difference of price between $6 80 and $8?—A. Yes, sir.

Q. Does your board take the ground that the Commissioner has the sole power of purchasing?—A. Certainly; that is the law.

Q. When he makes the purchase he performs his duty?—A. Yes.

Q. And when you supervise you perform yours?—A. Yes.

Q. It is his duty to act first in the matter and last in the matter?—A. Yes. In our interpretation we simply supervise, and all that we can do under that law, as I understand it, is to protest, and the Commissioner can finally act even against our protest.

Q. The final decision is left with him?—A. Yes.

Q. And the responsibility of the purchase is with him?—A. Yes.

Q. You are not bonded officers?—A. No, sir.

Q. Nor paid officers?—A. No, sir.

Q. It is a voluntary service?—A. Except as to the secretary; I am the secretary, and am paid a salary.

Q. You concede to the Commissioner the authority of deciding finally, when there is an issue between you?—A. Yes. I desire to present in this connection a letter addressed by myself to the chairman of this committee in regard to the duties of our commission under the last appropriation bill, and his reply. (See appendix.)

By Mr. SARGENT:

Q. Did the Commissioner ever see this correspondence?—A. No, sir; it was for our own information.

CONTRACTS FOR PURCHASING INDIAN GOODS.

WASHINGTON, D. C., *January* 17, 1871.

FELIX R. BRUNOT sworn and examined:

By Mr. SARGENT:

Question. You are president of the Indian commission?—Answer. Of the Board of Indian Commissioners.

Q. Have you been president since the organization of the board?—A. No, sir.

Q. Was your board called on to witness the making of a contract with J. W. Bosler, on the 17th of June, 1870, for the delivery of beef, coffee, &c., for the Indian tribes?—A. No, sir.

Q. Was your board called upon to inspect the quality of the goods delivered?—A. No, sir.

Q. Was your board consulted as to the propriety of extending that contract on the 10th of August?—A. No, sir.

Q. Or as to the character of prices to be paid under it?—A. No, sir.

Q. Were you afforded an opportunity to inspect the beef, coffee, sugar, &c?—A. No, sir.

Q. Were you consulted by the Commissioner in making the purchase of those goods?—A. No, sir.

Q. Were you consulted in any manner in regard to the making or execution of the contract, of 17th September, 1870, with J. A. Morrins, for the delivery of beef for the Indian tribes in Missouri?—A. No, sir.

Q. Were you consulted in making a contract with the transportation company for transporting Indian goods; or were you required to supervise any expenditure of money for that purpose?—A. No, sir.

Q. Were you called upon to pass upon the propriety of the contract with Bosler, made in September, for a large quantity of bacon to be delivered in Chicago?—A. No, sir.

Q. Were you called upon to inspect the goods and ascertain their quality?—A. No, sir.

By Mr. CHIPMAN:

Q. Did you ever complain to the Commissioner, about the time this contract was made, that he had not acted properly in excluding you from consultation with regard to the letting of the contract?—A. No, sir.

Q. You never spoke to him on the subject?—A. I never spoke to him on the subject.

Q. Did you have at that time, or have you had until recently, any occasion to complain of contracts which he made without consulting with you?—A. I have known nothing officially on the subject of contracts for supplies to the Indians.

Q. You knew nothing of the exigencies under which he acted?—A. No, sir.

Q. Did you regard it as your duty under this law to supervise literally all the expenditures of money appropriated for the Indian Bureau?—A. So far as it was practicable for our board, with their engagement to do so, I did.

Q. Did you not recognize that there were large administrative duties connected with the expenditure of money, which you could not in the nature of things supervise?—A. We did not expect to manage the expenditure of the funds of the Department.

Q. Did the letter which you addressed to the Commissioner relate to the purchase of the annuity goods?—A. It related to the purchase of any supplies intended to be purchased by the Indian Department under this act of Congress and under the act previous to the last act—the act of 1869.

Q. Prior to the appropriations made in the act of 1870, of course, you did not apply the duties to yourselves that are imposed by that act?—A. The letter was written with reference to the act of 1869.

Q. And not with reference to the act of 1870?—A. Of course the duty was continued more urgently by the act of 1870.

Q. Was the question ever discussed among you whether the term "goods" embraced everything for which there was to be an expenditure?—A. Yes, sir; I believe it was.

Q. State how you regarded transportation. Did you regard that as "goods?"—A. The question of transportation was never discussed, to my recollection.

Q. But you did discuss the meaning of the word "goods," as used in the law?—A. Yes; I think it probable that we did at the first meeting of the board, or at its organization.

Q. What was your determination at that time?—We came to the conclusion that it was intended to cover all the expenditures of the Indian Department.

Q. For whatever purpose?—A. Yes.

Q. You did not discuss the language of the act of July, 1870?—A. Yes, I think we had a subsequent conversation on that subject.

Q. When was that?—A. At a meeting in New York.

Q. When you were purchasing the annuity goods?—A. Yes.

Q. Was the commission present at that discussion?—A. I think not.

Q. Did your board ever communicate to him your construction as to the meaning of the word "goods," for instance that it embraced beef?—A. No, sir.

Q. It was a mere discussion among yourselves?—A. The acceptance of the powers given to the commission in the original instance was a qualified acceptance, and the words in which we accepted the powers were communicated to the President. We acted with this idea, that so far as it was practicable for us with our other duties and engagements, we would accept of the trust he had reposed in us. In the same way, under the last act of Congress, we accepted it with a similar qualification.

Q. Was that by letter?—A. That was not communicated.

Q. Was it a mental reservation?—A. No, sir; it was a consultation of the board as to whether we could accept those duties. We understood our duties were, to bear such a relation to the Indian Department originally as would not impose upon us the control of the executive business which belonged to the Commissioner of Indian Affairs, but that our duties were supervisory. Finding that the Indian Commissioner had the same understanding, and that he applied to us very shortly after our board came into existence to aid in purchasing certain goods in New York, we appointed a committee of the gentlemen of the board who were personally familiar with that business, and that committee in connection with the Commissioner of Indian Affairs made certain purchases, amounting perhaps to a hundred thousand dollars, in a manner very satisfactory to us. I inferred, of course, that when our advisory aid was again needed by the Commissioner of Indian Affairs it would be called for; and, as I think, properly doing all that could properly be done by myself as chairman of the committee, I waited some time for further information as to whether our services would be required.

Q. Was that under the recent law or under the old one?—A. It was previously to the enactment of the present law. Imagining that it was hardly possible that the business of the Indian Department could be conducted without making purchases during this time, I thought it my duty to address the letter which has been read here to the Commissioner of Indian Affairs, and I subsequently received the letter in reply which has also been read. I immediately called a meeting of the board of commissioners in the city of New York, for the purpose of meeting the Commissioner and coöperating with him. We then went on and made certain modifications of the Commissioner's plans, or we advised certain modifications which he adopted, and the purchases were made. It was not for me or for our board to stand over the Commissioner of Indian Affairs watching his movements, and demanding of him to come to us for the purpose of consulting us. That is the explanation which I wish to give of the action of our board.

Q. The language used by the act of July 15, 1870, is that it shall be the duty of the commission to supervise all expenditures, &c. Did you take that to mean consistently with the duties which you owed to your private positions, or did you receive that duty as a public officer would, to the exclusion of your other responsibilities?—A. Not to the exclusion of all our other responsibilities. We had made very great sacrifices of our private affairs in order to perform this duty.

Q. You did not feel yourselves acting under the obligation of an official oath; you were not paid?—A. We were not paid.

Q. Your services were voluntary?—A. Yes, sir.

Q. You recognized no pecuniary liability to the Government for your conduct?—A. No, sir.

Q. There were therefore none of the responsibilities connected with your office that are thrown around officers appointed by law?—A. Much higher responsibilities.

Q. Explain that. State whether you regarded yourselves as the managers of the Indian Bureau in any sense.—A. No, sir.

Q. Or of its affairs or its administration?—A. No, sir.

Q. Did you regard yourselves as charged with the administration of any of the laws connected with that Bureau, except as defined by those two acts?—A. No, sir.

Q. Did you regard yourselves as having supervisory control over the Commissioner, such as to compel him to do what he did not want to?—A. I cannot say that I at any time regarded our board as superior in authority to the Commissioner of Indian Affairs. I do not think it can have been intended that we should take the Commissioner's business and do it ourselves.

Q. Have you ever had any occasion to complain to the Commissioner, or to suggest to him that he was doing wrong with reference to the letting of any contract?—A. No, sir.

Q. Did your board ever make any complaint to him with reference to any of the contracts here spoken of?—A. No, sir.

Q. Do you know the circumstances under which he acted, or the facts upon which he based his official action with reference to those contracts?—A. No, sir.

Q. You know nothing of the exigencies under which he acted?—A. No, sir.

Q. You cannot say whether you would or would not approve his conduct?—A. No, sir.

WASHINGTON, D. C., *January* 17, 1871.

EDWARD EARL sworn by affirmation and examined.

By Mr. SARGENT:

Question. Where is your residence?—Answer Worcester, Massachusetts.

Q. Are you a member of the Indian commission?—A. No, I am not.

Q. What connection have you with the Indian service?—A. At the different yearly meetings, of which there are nine in different parts of the United States, a committee of two is appointed by each meeting, and I am one of that committee from the New England meeting. The duty of that committee is to take a general interest in behalf of the Indians.

Q. On such a mission as that were you at the Neosho reservation or agency when the payment was made to the Quapaws?—A. Yes.

Q. State how you happened to be there and what you observed there?—A. There were three gentlemen appointed to accompany Dr. Nicholson, and to go about among the Indians in the Indian Territory. The other two failed of coming. I came on, and when I got to Lawrence, Kansas, Mr. Hoag was there. After I had been to one agency he said to me that the next day there was to be a payment at Seneca, and that it would be a good opportunity for me to see some Indians. I had not seen Dr. Nicholson at that time; he had been to the Kaw Indians. On my return about Topeka, next morning, I fell in with him, and I told him that Mr. Hoag would like us to be at the Seneca payment. We started from Lawrence at 7 o'clock in the morning and went down to Baxter Springs, and there met Mr. Lang. That was on the 13th of October. On the 14th we went over to Seneca, and from there up to the agency. A little while after we had been there we were informed that General Blunt was going to address the Indians, and that he wished us to be present. He got them all around, one or two hundred of them. They were sitting on the ground, a good many of their chiefs particularly. General Blunt got near in front of them and went on and stated his case. I took some notes, not very perfect; but I will state from them as nearly as I can what took place. The substance of what he said was that he was applied to by the Indians to obtain certain sums from the Government for war spoliations; that the amount was $102,000 in the first place, but that it was finally cut down to $90,000. Then he told them how he fought it through Congress, and said that he had paid $6,000 for getting it through, and had got $10,000 more to pay.

Q. Did he say to whom?—A. No; I believe the question was asked him whom the $10,000 was to go to.

Q. Did he state that his services in getting it through Congress were what entitled him to the money?—A. Yes; he said he spent about three months the first year in an effort to get it through, and did not succeed, and that the next year he spent eight months more in accomplishing his work. He told how he watched it through the different stages; how it was left out of the bill once, and how he went and got it in again.

Q. In what house?—A. He did not say. He said that he afterward found that the whole thing was stricken out, and that he went to Mr. Morrill and said that it was a just claim and should be paid. Then he said that he got it put back into the report, and it passed, being referred to the Indian committee in both Houses. It was then referred back to the Commissioner of Indian Affairs, who recommended $90,000 instead of $102,000. He said that he got it put in the appropriation bill, and that he "bought it and fought it" through Congress. Those were his words. In his remarks to the Indians he said, "I have had a great deal to do with the Indians, and they have been always true to me, and now I do not think that they will come down on me;" and he asked them if they would do so. They said no, and he got them to indorse all he said. He then produced his contract with the chiefs—a written contract—all signed and sealed and stamped, and he brought it round to us to look at. Then he passed round four or five powers of attorney, and said that he had one of them from each claimant all the way through. He had prefaced the whole of this by saying that he understood that the Quakers were coming there to tell the Indians to repudiate their contracts, and it was then that he said to them, "I do not think that the Indians will come down upon me; they never have;" and he asked them then to reindorse all he had said. Aside from that I frequently spoke to him, trying to read his feelings a little, and he said that I did not know as much about the Indians as he did; that one dollar was as good to them as five dollars; that I would see them all drunk before they left. I was

there three nights, and one of those nights the Indians had a dance. That night I saw an Indian drunk, and perhaps I saw one drunk the next day.

Q. Was the paymaster of the Government present at that speech?—A. No; that was the afternoon previous to his being there.

Q. Was any Government official present at that speech?—A. Nobody but George Mitchell, the agent. Mitchell was there, and some lawyer from Peoria.

Q. Did the agent try to prevent the speech being delivered?—A. Not at all; he came and told us that Blunt was going to deliver the speech.

Q. Now state what took place the next day?—A. I would like to state one thing previously to that. We had a conference in the evening with the agent, before this took place. We asked him if nothing could be done. He told us that Blunt had power of attorney from every individual. I said to him, "Did you help to get those powers of attorney?" He said he did. I told him I was very sorry for that; that I thought it would complicate him, and he said he was sorry for it too. Every one of those powers of attorney was witnessed by him, and we were informed afterward that he did get them, even without Blunt being present. He said he was instrumental in getting them.

By Mr. BECK:

Q. Blunt said that he had "bought it and fought it" through Congress?—A. That was his language.

Q. Did you understand him to mean that he had paid members of Congress for the votes?—A. He said he had paid $6,000, and had $10,000 more to pay.

Q. He said that in connection with what he said about having "bought it and fought it" through?—A. Yes, sir.

Q. Did you understand him to mean you to understand that he had paid members of Congress to vote for this claim?—A. He would not give us any light upon that subject. I think I asked him afterward where the $10,000 were to go to in a rather joking way. He sort of bit his lip and did not make any reply.

Q. Did he make an impression upon your mind that he had to pay members of Congress?—A. I rather drew that inference; but still I should not care to say that I had any right to do so.

By Mr. SARGENT:

Q. Was any other inference possible when he said he had "bought it and fought it" through Congress?—A. That was the inference I drew from it.

Q. What else took place?—A. When this payment was about to take place, I mentioned that I had come there hoping to see justice done to the Indians, and that I should like to be in the room, if there was space for me. Mitchell said certainly, and I took a seat. I was going to take a seat by a little desk, but he said that that was General Blunt's desk. That was all arranged between him and the agent. There was another seat near Blunt's, which was for one of the clerks of some of the traders. I sat near him, and near another clerk of another trader; Agent Mitchell sat right before me; Jocknick sat in the corner, behind the stove, near the door; Williamson in the center of the room; and the interpreter between us. Thus the payment went on very much as Mr. Williamson has described it. Sitting back and seeing the whole proceeding, and being a little more disinterested than he, I could perhaps describe it a little more accurately. There was no specific sum paid to the trader, but only the amount of the orders which Agent Mitchell had given for goods for the Indians. I kept a record of it in my book. For instance, No. 75 came in. His claim was $338 21. Jocknick handed a ticket to Pilkinton, who mentioned the amount and handed the ticket to Williamson. Williamson then sung out the amount and handed the money to the Indian. The Indian passed it directly to Mitchell and Blunt and myself. I would say how much Blunt was to have. Then the store-keeper would say how much his claim was, and I would tell them how much went to the Indian. Mitchell then handed me back what the Indian should have, and I counted it and handed it to the Indian, telling his interpreter to tell him just what the sum was. Now, for instance, No. 75 had $338 21, Blunt's claim was $112 73, and the store-debt was $40, which left the Indian $185 48. It passed through these forms. I took my seat there because I had heard so much about cheating the Indians that I wanted to see how the thing was, and I thought I would rather be figuring and watching than sitting there idly.

By Mr. BECK:

Q. Could the Indian have taken his money and put it in his pocket and gone out of the house without objection from anybody, if he had wanted to?—A. I think that the chiefs and interpreters would have called him back if he had. It seemed to have been all prearranged; it was all understood by the agent, by Blunt, and by the store-keeper; it was thoroughly arranged the day before any of us got there; they told us that it was; they had every sum on the book arranged on purpose to show what the store bills were, so that there would be no delay about it, and it was proceeded with pretty rapidly, in consequence of everything being systematically arranged.

Q. The common run of the Indians could not have got the full amount of their money from the agent and gone off without settling the 33⅓ per cent. commission to Blunt, and without settling the store bills, without being called back?—A. Undoubtedly they would have been called back.

By Mr. LAWRENCE:

Q. Who was the agent?—A. George Mitchell.

Q. Was all this done with his approval?—A. Yes; I think I can say that without doubt.

By Mr. SARGENT:

Q. Is he still in the service?—A. Yes; that thing was all arranged the day before Williamson got there.

Q. Did Mr. Williamson seem to approve of that course or to object to it?—A. Mr. Williamson said, just as he has stated here, that he had nothing to do only to pay the Indians.

Mr. WILLIAMSON. And I objected to the course?

WITNESS. Yes, I think you did.

By Mr. SARGENT:

Q. Was anybody else present with you at the time Blunt made his speech?—A. Mr. Lang was present; perhaps it was the next morning after we got there, but it certainly was before Jocknick and Williamson got there.

Q. Is Mitchell an agent of any religious body, or is he a military officer?—A. He is an agent, who properly ought to be, I suppose, one of the Quaker agents; but he never has been removed; there seemed to be some difficulties in the way.

Q. Was he one of the Government agents appointed on the recommendation of the Quakers?—A. No, he was an old agent, who had not been removed; his wife is Senator Harlan's wife's sister.

Q. He did not come in under General Grant's Quaker policy, as it is called?—A. No, sir; he was there previously.

WASHINGTON, D. C., *January* 24, 1871.

S. E. WARD sworn and examined.

By Mr. CHIPMAN:

Question. Where do you reside?—Answer. In Nebraska City. I do business at Fort Laramie.

Q. How long have you been at Fort Laramie?—A. Since 1838.

Q. What business particularly have you been engaged in?—A. I have been engaged in the Indian trade, and as a sutler at Fort Laramie.

Q. Have you dealt largely in beef; and are you familiar with that trade?—A. Not in beef for the last few years.

Q. How long have you been trafficing in beef in that country?—A. Off and on for about twelve years.

Q. Largely or otherwise?—A. Not very largely.

Q. Are you familiar with the prices prevailing in that country, and have you been for this period of time?—A. For the last two years I cannot say I have.

Q. Do you know anything about the price of beef within the last few years?—A. Yes, I know what they are getting for beef at Fort Laramie.

Q. Can you state the difference between the price of furnishing beef along the line of the Pacific Railroad and in furnishing it on contract for the posts running from Yankton up to Grand River?—A. Taking the risk and everything, I should say not less than seventy-five cents in favor of furnishing beef along the line of the road.

Q. Upon what do you base that difference?—A. Upon the risk of capture by the Indians, of crossing the streams, and of the stampeding of the cattle.

Q. Have you had experience to enable you to speak of that matter from your own observation in that country?—A. I think so; that is as little as I would be willing to do it for.

Q. Have you recently bid for furnishing supplies of beef for any of the forts?—A. No, sir, not since 1869.

Q. Has there been any material variation in the cost of beef within the last four or five years?—A. I think it is less now. The last bid I remember to have made for beef at Fort Laramie was 12¼ cents net.

Q. Fort Laramie is how near the Pacific Railroad?—A. About ninety miles.

Q. Did you incur any risk in driving there?—A. Some risk. The greater risk is after you cross the North Platte and get into the Indian country.

Q. State as nearly as you can the value of beef in that country in June, 1870; what would be a fair price for supplying the Indian posts from Yankton up to Grand River?—A. There is a difference between Texas cattle and American cattle. I should not be willing to take a contract for less than seven cents to deliver them along up at the different posts.

Q. State what is the difference between Texas and American cattle; what do you understand to be Texas cattle?—A. I understand them to be cattle raised in Texas and driven there, and American cattle to be cattle coming from Nebraska, Iowa, or the adjoining States.

Q. What is the difference between the value of Texas and the American cattle?—A. I should judge a cent and a half.

Q. How is it with the Texas cattle that have been wintered?—A. There is about the same difference.

Q. What were cattle worth along the line of the Pacific Railroad—good merchantable Texas cattle?—A. I cannot say. I sold a lot at $80 a yoke, or $40 apiece, at Fort Laramie in September, 1870. They were working cattle.

Q. Were they sold for beef?—A. I really do not know what use was to be made of them.

By Mr. WELSH:

Q. Are you familiar with Schuyler and the great cattle depots in Nebraska?—A. I am not with Schuyler.

Q. You know where that point is?—A. Yes, sir.

Q. Do you know the price of cattle at Schuyler?—A. I do not.

Q. Or at Columbus?—A. No, sir; I have not been at Columbus lately. I have been at Nebraska City and Omaha.

Q. Have you ever delivered cattle on the Missouri River?—A. Yes, sir.

Q. What would you consider a fair price between prompt delivery and keeping them nine months and wintering them at your own expense?—A. Some months you would gain and some months you would lose.

Q. Suppose you bid for two contracts, one to drive cattle to be taken as delivered, the other to drive them there and you to keep them for nine months at your own expense, what would you consider a fair difference in the price?—A. I should consider it about two cents. I should say they would be worth two cents a pound more than when delivered at once.

By Mr. LAWRENCE:

Q. What stream is there in which there is danger in crossing cattle in going up to Yankton or Grand River?—A. That depends where you start from. If you start from the south side of the Missouri River and keep the roads for a short distance, you would have to cross the Missouri twice.

Q. Is there no other stream?—A. There is the Platte.

Q. Is there any place where the Platte would be dangerous?—A. Not at this season of the year. I have seen it when it would be dangerous crossing.

Q. Is there ever any danger in crossing the Platte with a herd of cattle where any skill is exercised in driving?—A. Yes, sir.

Q. Where?—A. Above Fort Kearney and above Columbus, Nebraska. It depends altogether on the season of the year.

Q. Did you ever know any cattle drowned in crossing?—A. Yes, sir; I have had them drowned.

Q. How many?—A. I have had them drowned at different times. I have crossed a great many times when I had to swim my oxen and ferry my wagons over. I could not say how many, but probably fifty or a hundred altogether.

By Mr. WELSH:

Q. You are aware that Whetstone is on the other side of the Missouri River?—A. Yes, sir.

By Mr. CHIPMAN:

Q. Do you know whether there is danger from Indians in driving up cattle from the Missouri River?—A. There is sometimes, when they are purchased in Iowa.

By Mr. BECK:

Q. What was the price of cattle in Nebraska in June, 1870—such cattle as were usually furnished Indian agencies, weighing a thousand pounds, gross?—A. I cannot say anything of what was furnished to the Indian agencies.

Q. What were cattle weighing a thousand pounds worth in Nebraska in June, 1870?—A. I should say not less than four cents.

Q. What were they worth in September, 1870, in Nebraska?—A. I do not know.

Q. Were they worth as much as they were in June?—A. I presume not.

Q. What difference, if any?—A. I should judge between a quarter and a half a cent. Cattle in June, to a great extent, are those which have been feeding through the winter on grain, and generally sell higher than they do in the fall.

Q. If cattle could be delivered in the fall at Whetstone and Grand River agencies, in Dakota Territory, and Yankton and Cheyenne agencies, at $3 80 per hundred pounds, gross, they ought to have been delivered at the same agencies in June for a quarter of

a cent more?—A. Yes, sir; though I would not have been willing to have delivered them at that price in any season.

Q. You were not dealing in cattle until the last season?—A. No, sir; except to sell working oxen.

Q. You were not therefore familiar with the price of cattle last summer?—A. No, sir.

Q. Were you familiar with the cost of transportation last summer?—A. No, sir; not in that region of country.

Q. Do you know anything about contracts made with the Indian commissions?—A. No, sir.

Q. Your experience is limited to transactions some years previous?—A. Yes, sir.

WASHINGTON, D. C., *January* 24, 1871.

ELY S. PARKER, Commissioner of Indian Affairs, sworn and examined:

By Mr. WELSH:

Question. In how many instances did you advertise publicly during the current year since June 30, 1870, for purchasing supplies for the Indians?—Answer. Twice during that time, I think.

Q. Do you know the extent, or about the extent of the purchases growing out of these advertisements?—A. I cannot give them to you exactly. Under the first advertisement between $350,000 and $400,000 were purchased.

Q. Of dry goods?—A. Yes, sir.

Q. Under the second advertisement how many?—A. I cannot state, from memory, the amount.

Q. What did they consist of?—A. Beef and bacon principally.

Q Do you remember the dates?—A. The first advertisement was dated July 26, I think, and appeared in the papers of July 27.

Q. And the contracts made about when?—A. The award was made about the 6th of August.

Q. For delivery at what time?—A. To be delivered on or before the 20th of August.

Q. The second, which was principally for beef and bacon, required the goods to be delivered about when?—A. The advertisement states, I think, the bacon was to be delivered at Chicago on or before the 20th of September.

Q. Can you give us an idea of about the extent of your purchases by private contract since the 17th of June last, and including that day, to be paid for out of the present appropriation bill?—A. Since June 17, beef has been purchased to the amount of about $514,000.

Q. Exclusive of this advertised beef contract?—A. Yes, sir. I cannot say, however, whether there is bacon included in this amount or not. I think there is.

Q. Does it also include supplies of sugar, coffee, and flour?—A. Yes; but I am not sure whether it includes bacon or not; nor can I tell without an examination of the vouchers. Under the head of "supplies," there is an item of $141,000.

Q. Were those purchases confined to supplies delivered in the Missouri region, or do they include the entire purchases of the Indian Bureau?—A. I am speaking now of what has been paid out since the 17th of June. At a later period in the fall there was additional flour purchased to the extent of about $101,000.

Q. Have you any means of getting at the entire amount spent in private purchases since the 15th of June last by the Indian Office, not only for the Missouri region, but for all regions?—A. That is what I am endeavoring to give you. I have another memorandum here of sugar and coffee, $80,000, and another small item of $3,900.

Q. Can you furnish the committee with the entire amounts spent by the Indian Office in private purchases since the 15th of June, to be paid for out of the present appropriation bill?—A. I have just given you the amounts, I think, with the exception of a purchase made on the 3d of December last, and I have not examined the bills of that to see what they amount to.

Q. Does the statement you have given include the purchase of the 10th of August, 1870?—A. Yes.

Q. Will you please furnish to the committee, at your convenience, the amount of the purchase of December 3d?—A. I will do so. They are all on the records.

Q. Did you consult the board of Indian commissioners in making any of your purchases, except for dry goods?—A. No, sir.

Q. Did you call upon them to supervise any expenditure of money other than the purchase of dry goods?—A. No, sir; I asked them to assist me in making payments of money.

Q. Did you call upon them to inspect any goods purchased for the Indians other than the dry goods purchased in New York?—No, sir.

Q It appears that on the 27th of May last the head of the Commissary Department of the Army notified you that there would be a surplus of supplies, and asked you to instruct the agents to receive these supplies at any time before the 30th of June. It

appears that on the 1st of June you did so instruct the agents; what means did you take to ascertain what surplus supplies there would be?—A. My recollection is that I simply asked the Commissary General to supply me at as early a day as possible, and to furnish me returns from the assistant commissaries as to what they did turn over to the agencies under these instructions. I had to depend on him for lists to be verified by lists that would be sent in to me from the agencies in the ordinary course of business.

Q. What means, before the 17th of June, did you take to ascertain the amount of surplus supplies which would be turned over to agents?—A. I took none in particular that I am aware of. That letter of the Commissary General which is printed was the first intimation I had that there would be a surplus of stores.

Q. Did you know the rate which the Commissary Department was paying for beef?—A. Yes, sir.

Q. What was the rate?—A. Four and forty-four one hund redths cents per pound. These were the figures given me by the Commissary General.

Q. Did you know whether the contractor was obliged to keep the cattle under these rates at his own risk and expense and deliver them as needed?—A. No, sir; I do not know as to that.

Q. The contract advertised in open market—I mean the Morrow contract—was to deliver beef at what rates?—A. Three and eighty-eight one hundredths cents a pound.

Q. Was the contractor bound to keep the cattle at his own expense and risk?—A. Yes, sir.

Q. And that contract runs through how many months?—A. Until the 1st of July next.

Q. That is about nine months?—A. The contract is dated 17th of September, running from that time until the 1st of July next. I think the delivery was to commence from the 1st to the 15th of October.

Q. Do you know whether Mr. Bosler is a partner in that Morrow contract?—A. I have such information; I have heard that he was.

Q. You speak of having inquired; what means did you take on the 17th of June or thereabouts to ascertain the lowest prices at which cattle could be furnished?—A. For several weeks previous to the 17th of June I had been in the habit of talking almost daily with parties visiting my office upon the subject of whether articles of subsistence could be had for an emergency in the region of these agencies, and, in my own mind, I had come to some conclusion as to what we would have had to pay in a sudden emergency for these articles of supply. The only means I could take was conversation with parties who were familiar with the country, and who were dealing in cattle.

Q. Do you remember whether Mr. Bosler was ever recommended to you by De Witt Clinton Wheeler?—A. I do not remember it.

Q. Are you aware that Mr. Bosler and Mr. Wheeler are partners in that business at all?—A. No, sir.

Q. What do you consider a fair difference of price between a prompt delivery of cattle, and delivering them as they are wanted, for nine months, subject to the risk of stampeding, loss of weight in the winter season, cost of feeding, &c., on the part of the contractor?—A. I do not feel myself a competent judge to give you an estimate of the difference.

Q. Did you ever inquire the price of cattle at that time at Schuyler, or other prominent cattle centers in Nebraska?—A. I did not know where the cattle depots in Nebraska were.

Q. Did you ascertain what the cattle herders in any of these depots were willing to deliver cattle for on the Missouri River?—A. No, sir.

Q. I observed that two of these agents asked the privilege of buying temporary supplies in the neighborhood; why was not that privilege granted, and why did you buy three months' supplies, instead of temporary supplies, in June, 1870?—A. We had no funds at that time to authorize them to buy for temporary uses; and, in the contract of June 17, the contractor agreed to supply the whole amount which we needed for all the agencies, taking the risk of an appropriation.

Q. Did you ask the Secretary of the Interior, or the chairman of either of the appropriation committees, to get a temporary appropriation for this purpose—such as was asked for and obtained on the occasion of Red Cloud's visit?—A. No, sir. The appropriation asked for during Red Cloud's visit was simply to pay the expenses of Indian delegation visiting Washington.

Q. I understand that you took no means to get funds for temporary supplies.—A. There was an appropriation bill then pending which we hoped might pass any day, and in the mean time I could only look to the arrangement made with the Commissary Department for supplies which would last to June 30.

Q. Did you notify the chairman or members of either the appropriation committees that an immediate appropriation was required for temporary supplies?—A. I was in frequent communication with the chairman and members of the committee in charge of this matter, and urged them to have the appropriation bill passed.

Q. Did you notify them of your contract made on the 17th of June?—A. No, sir.

Q. This contract requires the contractor to deliver in July, August, and September, in the mean time the contractor being required to keep the cattle at his own risk and expense; what reason was there for your sending to the agents notice requiring them to receive this cattle all at one delivery, against their wishes, and in some instances their protest?—A. That was done to carry out my original idea that supplies should be delivered into the hands of our agents in bulk, all at once if practicable. At the time of entering into this contract Mr. Bosler was doubtful whether he could deliver all of the cattle, as I wanted him to do at one time, and insisted on delivering them at different times, and at his request the clause authorizing different deliveries was put into the contract. I consented to it, at the same time stating that if he could deliver the cattle into the hands of the agents all at one time, I should prefer it. It gave better satisfaction to the Indians to know that the supplies were on hand for some time in advance. Hence when Mr. Bosler reported that he was able to deliver them all at one time, I notified the agents to receive them. It was supposed, and Mr. Bosler so represented, that he might have to make three different trips and purchase three different herds of cattle. There was urgency for the first lot to be taken up as speedily as possible, so as to serve their immediate necessities. That was the reason why that clause was put into the contract, and the reason why, when I found he could deliver all at once, I gave the order to receive them.

Q. Why did you insist that Mr. Poole should take them when he reported that he had three months' supply, and when under the contract the contractor was bound to keep them at his own risk and expense?—A. On the 18th of June, one day after the arrangement with Mr. Bosler had been made, Mr. Poole telegraphed me that he had nothing at all at his agency, and asked the Indian Office to supply him. I telegraphed back to him stating that arrangements had been made the day before to supply his agency. He then on the 22d writes that he has received some cattle from the commissary, twelve or thirteen hundred head, I think; but as the contract had been entered into with Mr. Bosler for a specific number, under the idea that that number would be required, and as Mr. Poole himself had represented that he had nothing on hand, I did not want to be at the expense of having them driven off to some other point, as I knew that in time we should need them for that agency. Hence I instructed that they should be received.

Q. Had Mr. Burleigh written to you that he would supply cattle at a less rate?—A. Not that I remember. He had written some time before, asking if I wanted cattle, and saying if I did he would furnish me. I do not recollect the price mentioned.

Q. Do you know what they were paying for beef in the Santee agency at that time?—A. I cannot state.

Q. Where was Burleigh furnishing them?—A. He was furnishing them at Santee, I think.

Q. And he wrote you that he had cattle on hand; that he would be glad to supply?—A. It is my recollection that he wrote me a private letter to that effect.

Q. What is the date of that letter?—A. Somewhere about the middle or latter part of June, as I remember.

Q. Can you produce it?—A. I do not think I can. I do not think I saved this private letter; it was not an official letter at all.

Q. Was it addressed to you as Indian Commissioner?—A. I am not sure about that. It was marked on the envelope "personal," and letters so marked, of an unofficial character, I do not ordinarily preserve.

Q. Why did you contract for cattle to be delivered in August and September and call it an exigency?—A. I do not know as I understand your question. I wanted them just as soon as I could get them, and the clause in the contract postponing the delivery of a portion of them was more for the accommodation of the contractor than anything else. I considered that the exigency would last until I could obtain supplies under the appropriation bill.

Q. Why did you not advertise immediately for cattle after the passage of the appropriation bill of July 15; did you not consider these supplies as of more importance than clothing?—A. Arrangements were made for a supply of annuity goods immediately after the passage of the appropriation bill, and my attention was directed wholly to their purchase during a considerable time. That is the only reason I can give you for not immediately advertising for subsistence.

Q. The contract of the 10th of August, for three million pounds additional of beef, was made for what reason?—A. It was made because at that time the subsistence matter had not received the attention which it ought to have received, and it became necessary to extend the arrangement previously entered into to continue the supply of beef and subsistence, which was getting short or would be before completing arrangements by advertisement, and as soon as my attention was called to the matter I had an advertisement prepared for supplies.

Q. Why did you receive cattle at 6½ cents per pound in November, contracted for delivery in October, when, under your open advertised contract, they were to be fur-

nished at $3\frac{88}{100}$ cents per pound in October?—A. The beef, under the Morrow contract, had not reached the agencies at this time nor at the time required by the advertisement for delivery. I had supposed, under the extension of the 10th of August, Bosler's beef would all reach there so as to keep the agency supplied until Morrow could commence delivering, and the extension of the 10th of August was intended to reach about October 15, or perhaps a little later, and that was the time Morrow was to commence his delivery, which, in consequence of some delays, he did not succeed in doing until some time afterward, and Bosler did not get up his cattle until after it was supposed it would reach there.

Q. Why did you not hold each party to his contract?—A. We would not get the information here from the agencies of the failure of the contractor to comply with the terms of his contract probably under fifteen or twenty days after the execution of it was due at the agency. We notified agents whenever arrangements were made for beef that it was due at such and such times, and if the contractors failed to deliver at these times we depended upon the agents to notify us. I was not aware in this case of the failure of the contractors to comply with the requirements of their contract in respect to time until the thing had past.

Q. When did you notify the agents that you had entered into that contract, or when did you send them a copy of the contract with Morrow?—A. I cannot from memory give you the date. My impression is that instructions were not sent up there until quite a long time after the contract was entered into. I give that as the impression on my mind.

Q. Have you any idea at all of the time?—A. I give you as my impression that it was after the middle of October or about that time; and I give it simply as my impression. I will furnish the exact date when I sent my instructions from the office, if the committee desire it.

Q. Was the Second Auditor ever notified of the receipt of a communication from Agent Randall, of August 20, 1870?—A. Not by me.

Q. Did you send invoices or descriptions of the various kinds of goods, sugars, coffee, and other stores sent up to the various agencies, so as to enable them to examine as to weight, quality, &c.?—A. I did not send them personally. I gave instructions that it should be done.

Q. Do you know that they were sent?—A. Not of my own knowledge.

Q. Can you produce evidence that they were ever sent?—A. I presume I could bring from the office witnesses who would testify that they were put into the mails. It is a rule always to send copies of invoices to the consignee, and I am perfectly satisfied that they were sent; but as I did not do it myself I cannot give it as a positive statement. I had returns from the agents sometimes stating that something was missing, showing that they had the invoices.

Q. Under the private contract of the 17th of June, for beef and flour, were there not other articles purchased?—A. Yes; bacon, sugar, coffee, salt, and, perhaps, other articles.

Q. Is that purchase in any of the papers before the committee?—A. I do not know.

Q. I observe by your letter to Secretary Delano, in evidence, you state that nearly all the Indian freight, consisting of annuity goods and other supplies, reached Sioux City in October; what evidence have you of that?—A. That was the opinion of the freight men in New York, who forwarded freight from New York, as to the time it would reach Sioux City. I was not at Sioux City myself, and of course could not know it personally.

Q. Did you not telegraph to Mr. Poole that annuity goods would reach him in September?—A. From his statements I presume I did; I cannot state it from recollection.

Q. What data did you have for making your published statement that nearly all the annuity goods reached Sioux City in October, necessitating a private contract on your part as to freight?—A. That is the opinion I had.

Q. Do you know where you got it?—A. I got a part of my information from the men in New York who transported the goods.

Q. If the goods left New York in August, they must have reached Sioux City in September.—A. I do not know that any goods left in August.

Q. Please state what evidence you have that these goods did not reach until October.—A. My information was from men who had the freight contract from New York to Sioux City, and who stated that the goods would not reach Sioux City until about such a time. They had been going on different days and by different trains, and my impression is that the last lot did not leave New York until the latter part of September. I could not tell, when in New York, at what time all the Indian freights would be ready to ship from Sioux City up the river, and I was compelled to make arrangements for late freight.

Q. With whom did you make your contract for freight from New York?—A. One contract was with a party whose name I cannot recall just now. He was the agent of what is termed among merchants the "Blue Line" from New York. I think Mr. Noble is the general agent.

Q. When and where was your contract made for freight up the river?—A. I was in Chicago, and executed a contract on the 26th of September, I think.

Q. That is the date of the contract, but it does not state at what place it was executed?—A. It was signed in Chicago upon my part, and, as I suppose, by the Northwestern Transportation Company at Sioux City.

Q. Is Mr. Wolworth an agent of the Northwestern Transportation Company?—A. He is secretary.

Q. Did that contract embrace past shipments or only future shipments?—A. It was to embrace everything that had to be done in connection with annuity goods and other supplies that were going up the river.

Q. When you made that contract did you know where these goods were you were contracting to send up the river?—A. I understood that some of them were at Sioux City or somewhere in that region.

Q. That was in September?—A. Yes. There were large quantities of goods that had not then reached there, and I understood there were Indian goods ready for shipment up the river, but I cannot say in what quantities.

Q. Have you ascertained, since that time, that all the goods reached Sioux City in September?—A. No, sir.

Q. Do you know how many goods were shipped up the river after that time?—A. No, sir.

Q. Then, when you made your contract, you did not know there were any goods at Sioux City, at all?—A. I knew there were goods there, but I did not know how many.

Q. Did that contract include goods shipped up the river in June?—A. No, sir; for all the goods which went up in June the contractors were required to deliver at the agencies.

Q. When you made your contracts were you aware that very large quantities of these goods had already gone up the river?—A. No, sir; I was not aware of it. I had an idea that some had gone, because I had given instructions to Mr. Wolworth, when I last saw him in New York, that when Indian goods reached Sioux City not to delay them there at all. I did not want them to remain in Sioux City any longer than possible, and gave instructions to have them crowded ahead to their destinations lest low water and cold weather might delay them.

Q. You gave this order to Mr. Wolworth without any contract?—A. I had an understanding with him that the goods were to be taken at the lowest price. The last time I saw him, in August or September, I think, I arranged with him to send on a contract executed on his part, at Sioux City, and I would execute it on my part.

Q. Without fixing the rates?—A. We had had a conversation about the rates.

Q. Were you not aware that there was a special contract already in existence for carrying all goods up the Missouri River?—A. No, sir; not at that time.

Q. Did you never see an advertisement for such a contract?—A. My attention was never called to it, and I had never seen it.

Q. What attempt did you make to get up competition among steamboat owners, and to obtain the lowest rates of transportation?—A. I did not find it necessary to make any such attempt. While I was in New York they were in to see me almost every day, and were talking about the freight business, and I obtained in those conversations their ideas of what they were willing to do.

Q. Do you know how many parties were interested in this freight up the river?—A. No, sir.

Q. Are you aware that De Witt C. Wheeler had an interest in it?—A. No, sir.

By the CHAIRMAN:

Q. At the time that the contract of the 17th of June was made, I understand you that no advertisement was published?—A. No, sir.

Q. That contract was made with J. W. Bosler?—A. Yes, sir.

Q. And it was for beef at 6½ cents a pound, bacon 25 cents, coffee 28 cents, sugar 18 cents, salt 8 cents, soap 15 cents, and tobacco 85 cents, to be delivered at the agencies?—A. Yes, sir.

Q. On the 16th of June, or any time shortly before making this contract, did you have a conversation with a man by the name of Finn, of St. Louis, and with a man by the name of Baldwin, in which they asked you if you intended to make any such contract, desiring to bid for it if you did; and do you recollect that you replied that you did not intend to make such a contract?—A. I recollect that Finn was here a great deal last winter and summer, and probably about the time you mention he may have asked me again. He had inquired at various times in regard to furnishing beef at Whetstone. I do not recollect giving him any such reply as you suggest.

Q. You did not state to him that you did not intend to make such a contract at any time, and that you could not make any such contract, because the appropriation bill had not passed?—A. I have no recollection of any such conversation.

Q. Did you consult the Indian commission in reference to the price to be paid under that contract?—A. No, sir.

Q. Did you furnish them any facilities, or request them to inspect any articles furnished under that contract?—A. I did not.

Q. One-third of these goods were to be delivered the 15th of July, one-third the 1st of August, and one-third the 1st of September?—A. That applied only to the beef; the balance of the stores were to be delivered at once, as soon as they could be sent up there.

Q. When you extended this contract, August 10, for 1,500,000 pounds of beef, or 3,000,000 gross, was not that after the appropriation bill had passed, and when you had funds under that bill in your hands?—A. Yes.

Q. Did you consult the Indian commission as to the propriety of paying these prices longer?—A. No; I did not.

Q. Did you advertise?—A. There was no advertisement published at that time for beef or subsistence?

Q. What was there to prevent an advertisement, after the passage of the appropriation bill, down to the 10th of August, when you made that extension?—A. I do not know that there was any, except that my time was occupied in attending to the annuity goods in New York. My whole attention was directed to that, and this subsistence matter was neglected.

Q. How much in amount did these goods come to?—A. From $350,000 to $400,000. I do not recollect the exact amount.

Q. What was the value of this three million pounds of beef at the contract price?—A. At 6½ cents, it amounted to $195,000, I think.

Q. At that same time, did you make an order for between two and three million pounds of flour, at 3½ cents?—A. Yes, sir, in the same letter.

Q. How much would that amount to, at 3½ cents?—A. It amounts, I think, to $105,000.

Q. Was the amount then of this extension of beef and flour the same as the annuity goods, to which you paid special attention?—A. The amount of the annuity goods, I think, was much larger.

Q. You made a contract on the 17th with J. A. Morrow, did you not?—A. Yes, sir.

Q. How long was the original advertisement for that contract?—A. I think it was dated August 26, and published in the papers here, August 29. The bids were to be opened September 5, which would make nine days.

Q. That would be nine days for the papers in the city of Washington; how long would it be for Chicago, where the advertisement was published, as I understand, allowing time for the bids to reach here by mail, under the advertisement?—A. It would not give more than three days in Chicago?

Q. What was the necessity for so short time of advertisement? Why was the advertisement not inserted at an earlier period, so to give bidders more than three days to make up their minds?—A. There is no reason why it should not have been inserted at an earlier date, except that my personal attention was directed to something else, and this did not receive either my attention or the attention of the office as early as it should. If it had been inserted earlier, we should have had a longer time for notice.

Q. By whose order was that advertisement extended?—A. By the order of Secretary Cox.

Q. On whose application?—A. I do not know.

Q. Under that contract the price of beef was $3 88?—A. Yes, sir.

Q. The first time there was an opportunity by advertisement for bids, the price that the Department paid was reduced to one-half?—A. Very nearly.

Q. You say that the agents were required to receive at once the cattle that by contract with Bosler were to be delivered from the 15th of July until the 1st of September, for reasons which you have given? Did not the change made by you requiring the cattle to be received at once devolve upon the Government the expense of herding, and the risk of the cattle straying, and of impoverishment for want of proper food?—A. I did not regard it so at the time, and do not know that such was the fact. There has been no such representation, except from one agency, where it is reported that extra expense was incurred by reason of the accumulation of cattle.

Q. Was not the Government compelled to employ herders in any event at every agency?—A. I do not think they should have been employed. They were, as I said, at one agency, and it may have been at others. We regarded it in this light: we had in the employ of the agency men enough who would make as good herders as we wanted.

Q. Was the Indian commission consulted as to the prices paid under the Morrow contract?—A. No, sir.

Q. Were they instructed to inspect goods, and supervise the expenditure of money under the contract with Bosler, or were they consulted?—No, sir.

Q. Were they in any case desired to inspect goods?—A. No, sir.

Q. In one of the vouchers from the Second Auditor's department I see that a person is paid for inspecting bacon at Chicago. Do you remember the circumstances?—A. Yes, sir.

Q. Was it inspected by one of the Indian commission?—A. No, sir.

Q. Why, when the law gave authority to the Indian commission to inspect goods purchased for the Indian service, did you pay other parties to make such inspection?—A. There was but one of the commission who resided in Chicago. I suppose I might have called on him. I did not. The person who inspected this bacon was a man employed by the board of trade of the city of Chicago, a man recommended to me through Colonel McTeely, Commissary of Subsistence United States Army, as one who was perfectly familiar with the article of bacon. I spent but a day or two in Chicago, during which time I did not meet Mr. Farwell, and I permitted this man to make the inspection.

Q. What is the cost, ordinarily, per hundred-weight of transportation from Chicago to Sioux City?—A. From Chicago to Sioux City, I think it is about $1 50 per hundred-weight, or in that neighborhood, by railroad.

Q. I have in my hand a contract furnished me by the Quartermaster's Department, showing that for 1870 they contracted with George K. Hazlett to transport goods from Chicago to Whetstone agency at $1 45 per hundred-weight. I find by your contract which you made with the transportation company that they were to transport goods from Sioux City to the Whetstone agency at $3 25 per hundred. Now, if the cost of transportation from Chicago to Sioux City is $1 50 per hundred pounds, how came you to pay so large a price during the same months between Sioux City and Whetstone?—A. I do not know anything about this quartermaster's contract at all which you refer me to, and hence I cannot answer the question intelligently as to why I had to pay so much more.

Q. Are the Cheyenne and the Big Cheyenne agency the same agency?—A. I suppose they are the same thing.

Q. The same quartermaster's contract includes transportation from Chicago to the Cheyenne agency at $4 20 per hundred-weight for September and October; your contract from Sioux City to the same place is $5 25 per hundred pounds; can you explain the difference?—A. I cannot explain the difference. I can say this, if you will allow me: In May and June, 1869, the Indian goods which left New York City were transported to the different points on the Missouri River, and I will give you some of the prices. From New York to Yankton it was $7 22 per hundred; to Fort Rice and points above Grand River, the price was $8 72. Now, this year I transported from New York to Sioux City by railroad, for first-class freight, at $2 55 per hundred, and for second, third, and fourth class, at a lower rate. From Sioux City to Yankton the price was $2 25, which would bring it to $4 80 from New York to Yankton, against $7 72 for last year; while from Grand River the price was $6 25 to Sioux City, which would make it from New York $8 80, or 8 cents higher than last year.

Q. The contract I ask your attention to was for transportation from Chicago to the different agencies; I do not refer to the prices from New York.—A. I understand that. I know nothing about these rates of the Quartermaster's Department.

Q. I have here a contract made between the Quartermaster's Department and Hiram K. Hazlett to furnish all transportation required by the United States for posts and Indian agencies between St. Louis, Sioux City, and other points on the river to Whetstone, Big Cheyenne, and Grand River agencies, and under that contract, for September, 1870, to the Grand River agencies from Sioux City, the price is put down at $2 20 per hundred pounds, while I find that under your contract, made with the transportation company, you paid $6 25 for transporting from Sioux City.—A. I know nothing about the quartermaster's arrangements.

Q. Was this contract with the transportation company made without any advertisement?—A. Yes.

Q. Did you have any talk with H. K. Hazlett about the cost of transportation?—A. No, sir. I did not know H. K. Hazlett at all. I had never heard of him.

Q. Did you consult any of the Indian commission as to the price which should have been paid for transportation?—A. No, sir.

By Mr. BECK:

Q. Can you tell us the amount of money which you paid Bosler under the contract of June 17, 1870, and at what time and how the vouchers were made out?—A. I could not answer that question fully without consulting the records of the office. I could give you the aggregates, but I could not state at what time the vouchers came in or in what sums, from memory or from any memorandum I have here. I can furnish these facts from the office.

Q. State the amount paid under the extension of August 10 and the amount paid under the contract of September 26.—A. I will supply all that from the office.

Q. State also the amount paid under the contract of September 17, with Morrow, and the amount paid the transportation company under your contract of September 26.—A. I will also furnish that information.

Q. The agreement in the contract with Bosler, of June 13, 1870, provides that in consideration of the faithful performance of that agreement upon the part of the contrac-

tor, he is to be paid, at the office of the Commissioner of Indian Affairs, in Washington, D. C., on presentation of receipts from the respective agents, the prices agreed upon. Was it usual to make payments to contractors upon the receipts of Indian agents at the Indian Office?—A. Yes, sir; upon the statement of the Indian agents that they had received the Indian goods in the amount specified.

Q. That was the only voucher which was required upon which to make payments upon contracts at the Indian Office?—A. Yes, sir. For instance, if we buy goods in New York City and Philadelphia, we would require the merchants to furnish invoices and bills of lading of the transportation company, showing that the goods had been started; then we require the agent to certify that he has received them according to invoice, which has been previously forwarded, and upon that receipt we make payment to the contractor.

Q. Requiring no other voucher than the receipt of the agent that he has got that much?—A. Yes.

Q. And that has been the custom of all other contracts as well as this?—A. Yes, sir; it is a settled custom of the office.

Q. So that the Treasury officials have no other vouchers from your office except the receipt of your agent for so much delivered?—A. That is all.

Q. Where was this contract of the 17th of June entered into?—A. In Washington City.

Q. What was the exigency that required a contract of that magnitude?—A. The Sioux, of Missouri, in June, 1870, had five agencies along the Missouri River, covering a distance up and down the river of, I suppose, between six and eight hundred miles; they had recently come into these agencies, and located under the stipulation that they should be subsisted there, according to their treaty with the peace commissioners. In the appropriation bill for the fiscal year ending June 30, 1870, was the appropriation of two millions in bulk for the use of the Indians generally. After the passage of that appropriation bill, an arrangement was made with the Commissary Department of the Army to subsist the Indians wherever it was necessary, to be paid out of that two million fund. These Sioux Indians, while they were not really friendly, were not absolutely hostile. The appropriation bill was hanging here in Congress. On the 15th of June, two weeks before the arrangement with the Commissary Department was to terminate, we saw before us very serious difficulties. If the office took no action at all for continuing the supplies after the commissary's had ceased, we feared that the Indians would either leave the agencies or subsist themselves by depredating upon what they could find about them. We did not want them to leave the agencies or enter into any kind of depredations. My idea was that if we could subsist them for three months, we could in the ordinary routine of the business of the office be able to make regular arrangements for subsisting them after that time; and in making this contract of the 17th of June, my intention was to cover the exigency which then seemed to arise for subsistence for about three months from the first of July.

Q. How had you been receiving supplies at this agency up to this time?—A. From the Commissary Department of the Army.

Q. I see a telegram from Sioux City, dated June 22, 1870, as follows: "I have enough cattle on hand to last three months. Will the Commissary Department furnish the other supplies? Your answer to this will guide me in closing up my papers with that department.—D. C. Pool, Captain U. S. A." Where did he get those cattle from and when?—A. All I know about it is from that telegram and from a letter subsequently written, stating that he received them from the contractor of the Commissary Department—the contractor who had been furnishing them the supplies they issued to the Indians.

Q. Who was the commissary contractor?—A. His name, I have learned, is Fenlon.

Q. What price was the War Department paying that commissary contractor at that time?—A. 4.44.

Q. To be delivered at the agencies?—A. Yes, sir.

Q. Why did you pay 6½ cents when these commissary contractors were furnishing it at these agencies at 4.44?—A. No such offer was made to me. I got the impression from my daily intercourse with these people, that they did not want to supply any more at that rate; that they had lost money under their arrangement with the Commissary Department, and I had the impression that they would not do it.

Q. Did you make any effort to ascertain whether or not you could have continued to have received supplies during this contingency that occurred at 4.44 or at the rates at which the Commissary Department had been supplied?—A. I talked with the Commissary General about it.

Q. Who was he?—A. General Eaton. I had frequent conversations with him.

Q. What was his report upon the subject?—A. I can only give my impression of it: that he did not care to continue the arrangements unless I had money to pay for the subsistence. His arrangement with these contractors was to terminate on the 1st of July or the last of June, and it became absolutely necessary for him to know whether

he was to continue the arrangement after that time, as he would be required to enter into new contracts to supply himself.

Q. Did you put yourself in communication with one of these contractors from whom the Commissary Department had received their supplies, for the purpose of ascertaining whether you could continue to receive them at the same rates?—A. I did not; I did not know who they were.

Q. Could not General Eaton have informed you?—A. He could have informed me. I did not ask him.

Q. He did not tell you the rates at which he was receiving these supplies?—A. He did give me some of the rates, and perhaps all, for my information.

Q. Do you remember the rate at which other supplies than beef were furnished to the Commissary Department?—A. I could not give you a single price.

Q. Were they not much lower than you contracted for with Bosler?—A. I have no recollection; I may have seen the rates once.

Q. General Eaton would not hesitate to give you any information you desired as to prices they were paying if you had asked him?—A. No, sir; and I do not say but what he did give me the prices at some time during the year at which he was supplying us with everything.

Q. How long before you made this contract of the 17th of June with Bosler had you known the fact to exist that the Commissary Department would not furnish these supplies beyond the 1st of July?—A. I did not know certainly that they would not. I knew merely the fact that the arrangement would terminate at that time.

Q. You had known that for many days?—A. The arrangement was entered into July 1, 1869, and was to continue for the year; I had known it, therefore, for the year previous.

Q. You were not compelled, then, to make these special purchases by any particular emergency which arose unexpectedly at that time?—A. No, sir; we were waiting upon the Indian appropriation bill, and as the 1st of July approached, the greater was the exigency, in point of time.

Q. Under your contract with Bosler, he had a right to come into the Indian Office and demand his pay upon the receipt of your agents, without regard to the appropriation bill; he took no risk upon that?—A. There was nothing mentioned in the contract on that subject.

Q. He had an absolute right upon his bill, as against the Government, to demand payment upon these receipts from the agents?—A. So far as the papers were concerned, that was so.

Q. Did not the advancement of the time at which he had to deliver these cattle to all at once, instead of the various periods named in the contract, expedite the right to demand his money from the Government at an earlier day than his contract contem-

—A. I presume it did.

Q. It enabled him to deliver his cattle and get receipt immediately?—A. Yes, sir.

Q. Whom did you send your instructions to the agents by to change the contract and receive the cattle all at once?—A. I sent them by Bosler himself. He was then at Sioux City. The mails were very irregular from Sioux City up the river. He was going right up, and I sent the instructions to the agents by him as the quickest way of reaching there.

Q. Mr. Pool had before that time advised you that he had cattle enough on hand to last three months?—A. Yes.

Q. And he was one of the agents who was required to receive in advance on this contract?—A. He was.

Q. Was not the effect of that change to relieve Bosler from risking the loss of his cattle by death, by stampeding, by impoverishment, or in any other way, taking that responsibility upon the Government itself, and enabling him to draw his money at a much earlier day than a strict compliance with his contract would have done?—A. That would be the effect.

Q. When the 10th of August came, you wrote him this letter, which is in the record, extending the contract at the same rates?—A. Such is the fact.

Q. State what exigency existed then for continuing these prices?—A. Nothing had transpired, so far as I was concerned, to change my opinion as to the value of beef up there.

Q. How did you get your information that beef was worth six and a half cents when Commissary General Eaton had informed you that it was furnished them at 4.44?—A. I got my information from daily intercourse with dealers in cattle, contractors, and business men up there, that 4.44 was too low a price; that I could not get it at that at all, and that consequently I had to pay more.

Q. Had you written communications to that effect from any one; and if so, from whom?—A. No, sir; it was conversation in my daily intercourse with men who came into my office, and who had such information.

Q. Conversation with men who were themselves wanting a contract?—A. Many of

them; or at least I do not know whether they wanted contracts. They were men in the business in the West.

Q. The fact was developed, was it not, in September, that you could buy them delivered at 3.88?—A. Yes.

Q. Up to the time you made your contract and the extension of it in August, had you informed yourself by advertisement or by calling for information from any one as to the prices of these goods?—A. I had published no advertisement, but I had not ceased picking up information from those I thought informed in the matter through verbal communication. I made no official communication to any one on the subject.

Q. Did not previous usage and did not law require all contracts of that character to be made after public advertisement?—A. There is a law on that subject.

Q. Of which you were aware?—A. Yes, sir.

Q. That law required advertisement for the lowest bidder?—A. Yes.

Q. Had you been in negotiation with Bosler for any length of time before June 17, relative to this contract?—A. Probably a week before.

Q. I see that your contract in September is signed by Mr. Cady, as acting Commissioner of Indian Affairs; I refer to the Morrow contract. Was that contract made in Washington?—A. It was made in Washington.

Q. Were you here at the time or absent?—A. I was absent.

Q. Where?—A. I was in New York at the time.

Q. Had you accepted the bid and made the contract before you went away, or did you leave it with Mr. Cady to make?—A. I left it with Mr. Cady. The bid that was accepted before I went away was one made, I think, by a Mr. Gibbs, of St. Louis. He was notified of it, and after two days I think he replied to the office that he declined to enter into a contract. In the meantime I had gone over to New York. The declination, which came after I left, was telegraphed by Mr. Cady to me. I responded to let it to the next lowest bidder, which was Mr. Morrow. As I understand, Mr. Morrow lived at Omaha, and he was telegraphed to. I give this as my impression.

Q. Was Bosler connected with that contract?—A. I understand that he is now. Whether he was then or not I do not know, because Bosler himself was a bidder. What combinations they had among the different bidders, I have no knowledge.

Q. This contract with the transportation company was for goods purchased in New York, was it not?—A. Yes, for goods purchased in New York, and for bacon purchased in Chicago, under the contract of the 26th of September.

Q. You had nothing to do with transportation of goods under the contract of June 17, or the extension of August 10?—A. No, sir; the contract for transportation included sugar, coffee, and articles of that kind, as well as bacon and the goods mentioned.

Q. State what Indians were paid by Mr. Williamson, what his instructions were, and what sums of money were paid into his hands, and when?—A. I can only give you a very general answer to that. The Creeks were paid by Mr. Williamson the sum of $100,000. This was paid out of what was called the Loyal Creek fund, arising out of their treaty of 1866, for losses sustained by the loyal Creeks, freedmen and refugees, in consequence of the war. It was appropriated under this bill of last July. A list had been made of the parties who were entitled to compensation, with the amount in each case, and Mr. Williamson's instructions were to take this roll and pay the Creeks named in the list, in accordance with it; not to pay to any attorney, but to put the entire amount which each Indian was entitled to into his own hands. The Quapaws, also, received about $90,000 for losses sustained by them during the war. They were paid also by Mr. Williamson, and his general instructions were to the same effect—that he was to pay the money into the hands of the Indians, and not into the hands of any attorney, claim agent, or other person. He was also furnished with a list of the claimants, and the amount due to each. The persons were to be identified satisfactorily to him, and he was to pay in the same way. So far as the Pottawatomies were concerned, the facts were about these: a portion of that tribe had become naturalized citizens, and their invested funds were sold, they receiving the proceeds, each his *pro rata* share of the invested funds of the tribe. A portion of the tribe did not become citizens, but still retained their tribal organization. The portion who became citizens were entitled, as I have said, to their *pro rata* of the fund. The entire amount given to them, as I recollect, was about $560,000, and this Mr. Williamson paid. He was also, in this instance, furnished with a list of the persons to whom the money was to be paid, and the amounts.

Q. These payments were made, then, to the Creeks, Quapaws, and Pottawatomies.—A. Yes, to the Pottawatomies of Kansas. I notice that Mr. Williamson, in his report, says he paid about a million. The sums I have given do not amount to that much, and it is very possible I have not given some of them accurately.

Q. Was there any recognized person or agent who had contracts with these people, or liens upon these payments, in any shape or form, which could properly be recognized in making the payments?—A. Not, to my knowledge, a single person.

Q. Was there any list of persons in connection with these payments to the Creeks,

Quapaws, or Pottawatomies, entitled to liens or deductions from payments made by Mr. Williamson known to you?—No, sir.

Q. Could it have been rightfully furnished to anybody without their authority?—A. No, sir.

Q. And you swear that none was furnished?—A. Not to my knowledge. If application had been made to me I should, as a matter of course, have refused it.

Q. And if any person had such lists in advance, containing the names of the persons and the amounts, it could not have been furnished by authority from your office?—A. No, sir, I think not.

Q. Did the Indian Office recognize in any way the right of agents or counsel, or other persons who pretended to represent the Indians, to have any claim upon that fund for any services they had rendered, or professed to have rendered?—Not to my knowledge.

Q. The Indian Department did not recognize any claim of that kind.—A. No, sir.

Q. How were the other Indians paid?—A. These were the only payments made by Mr. Williamson. The other Indian tribes of the country entitled to annuities are, as a general rule, paid by their local agents.

Q. Is the money sent from the Indian Department to the local agents?—A. It is sent from the Treasury Department.

Q. It does not go into your hands at all?—A. It does not go into the Indian Office at all; and in the case of Mr. Williamson it did not come into the Indian Office at all. We draw requisitions, and the Treasury pays the money into the hands of the person in whose favor the requisition is drawn.

Q. Take, for instance, the Choctaws and Chickasaws under the treaty of 1868, how is that money paid?—A. It is paid through the local agents of the Choctaws and Chickasaws.

Q. The money is sent direct from the Treasury to the local agent, and paid over by him?—A. Yes; paid either *per capita* or to the treasury of the nation, as the case may be.

Q. The Indian agents are under your control?—A. Yes, sir; they are appointed officers.

Q. Have any of them any authority from you to employ attorneys or agents, and give any liens or claims upon the funds going to such tribes as the Choctaws or Chickasaws for any services they may have rendered?—A. No, sir.

Q. Do the papers in your office show that large sums were taken both from the Chickasaws and Choctaws by persons who claimed it as their right?—A. No, sir; the only papers in the office of that character relate to the two, and refer to a large amount being taken from this payment that Mr. Williamson made. The Chickasaws and Choctaws are paid by the local agent, and there are no papers that I am aware of in reference to any of their funds being depredated on by claimants or attorneys.

Q. Where would these papers be, if any such were in existence?—A. I cannot tell unless they would be in the Indian Office. They would necessarily come there, if complaints were made.

By Mr. CHIPMAN:

Q. I ask you whether, at the time you made your contract of June 17, 1870, with Bosler, you believed from the information in your possession that there was imminent necessity for a contract of that character?—A. That was my belief.

Q. Did you act upon that belief and upon the information you had in your possession at that time?—A. I did.

Q. Did the matter come up in your mind as to whether the term "goods," used in the appropriation act approved July 15, 1870, embraced the matter of supplies generally, and, if so, what interpretation did you give to the statute?—A. I have never had but one impression until recently on this subject, which was that the term "goods" generally used in the appropriation act did not embrace what we call subsistence or provisions.

Q. Do not the laws distinguish between the two, and in this same appropriation act do not these two items appear separately?—A. They appear separately as a general thing, and I suppose there is where I got my impression.

Q. Did you feel that it was your official duty to consult the board of commissioners in regard to this matter of provisions or subsistence, and did the question come up in your mind as to whether it was your duty to consult them?—A. I did not regard it as my duty to consult them.

Q. Was that the reason you did not consult them?—A. That was the only reason. There were members of the board here during the month of June, and probably some portions of the month of May. We had conversations in the office in reference to the condition of Indian affairs, and the necessity of furnishing supplies to these particular Sioux. Red Cloud, with his delegation; Spotted Tail, with his; and another chief of another tribe up the Missouri, whose name I do not remember, were also here. Members of the commission were here, and, in my judgment and belief, the necessity was fully recognized by them of keeping these Indians supplied.

Q. As to that point, had you any doubt of your duty to act in the manner you did?—A. I thought it was my duty to act, and I do not know of any impression given me of any other opinion on the subject. I think Mr. Brandt was as anxious as I was that these Indians should continue to be supplied.

Q. Did any member of the board suggest to you that they should have the supervision of the purchase of these supplies?—A. I do not recollect that anything was ever said to me on the subject by any member of the board.

Q. When you made a contract with Bosler, I believe you have explained that it was your wish that the cattle should be delivered all at one time, if possible?—A. That was my intention from the beginning.

Q. And the extension to different times of delivery was to suit him in case he was unable to purchase the cattle all at one time?—A. It was to suit him in case he could not get all the cattle at first.

Q. Then, in furnishing the cattle at one time he practically complied with your original intention?—A. He did.

Q. Mention is made here of a correspondence between yourself and the Commissary General of the Army, of May 27 and June 1, in reference to what other supplies might be on hand. Was it contemplated at that time that there would be any large surplus, or what was understood with regard to the surplus remaining over on the 30th of June?—A. I did not get the impression at the time that they wanted to deliver over to the Indian Department any large amount of supplies, but that there would necessarily be what in common phrase would be called "the tag ends" in closing a contract, which they wanted us to take. The idea was that it would be suitable to our use, but would be worthless to them if left on their hands.

Q. In point of fact were there large quantities of cattle or stores remaining over?—A. Not to my knowledge, except at Whetstone.

Q. Was the number of cattle received by Mr. Poole under instructions given by you, or was it not an independent matter of which you had no knowledge?—A. My impression is that it was an independent matter. When I wrote this letter of June 1, it was my intention to indicate to General Eaton that we would take whatever was intended for us on the 1st of July, and which might be left on his hands, and which, from any circumstance, might not have been received by the agents, but the idea was not that we should take any large quantity.

Q. These were the supplies in the hands of the commissaries at different points?—A. In the hands of the different agents of the Commissary Department, which they had at their different storehouses, as I understand.

Q. But the cattle received by the agent at Whetstone were received directly from the contractor?—A. That is my understanding.

Q. Had you any previous acquaintance with Bosler prior to this contract made in June, 1870?—A. I may say that I hardly had any at all. I had seen him two or three times before this contract was entered into, or perhaps three or four times altogether.

Q. Had you any information as to his responsibility or reliability for complying with any contract he might undertake?—A. I did inquire as to his responsibility from parties whom I supposed would know respecting his capacity to execute or fill any contract he might enter into, and my information was that he was a good contractor, perfectly responsible and reliable.

Q. About the extension of the 10th of August, what, in your mind, was the controlling reason for making this extension; what were the necessities at that time which required it?—A. The main reason I had in my mind was simply to prevent the agencies from running short of supplies for the Indians on the Missouri River. I looked at it in this way: The beef supply, under the arrangement of June 17, was becoming exhausted, and before I could advertise, contract, and get beef under the contract, the agencies would probably be entirely out of supplies, and the Indians would have left the agencies, which I wished to avoid if possible. That was my reason for ordering the extension.

Q. What was the reason in your mind for not calling on the board of commissioners to inspect these provisions, as you did call upon them in regard to the goods?—A. I had no doubt in my mind, after the passage of the act of July 15, that they were directed by the law of Congress to inspect goods purchased, and I called upon them with that view; but I did not understand that the same requirements extended in reference to supplies. It would be often very inconvenient to bring them up to inspect every purchase and supervise every expenditure made under the extension.

Q. Had you any knowledge that Bosler had any interest in the Morrow contract of September 26, at the time it was made?—A. No, sir.

Q. State whether you had any interest, direct or indirect, in any contract made with these parties, which is now before this committee for examination?—A. No, sir; I did not.

Q. Was your conduct in the matter, or not, based upon your best judgment, as an officer of the Government in charge of the Bureau of Indian Affairs?—A. It was based

upon my best judgment. I thought, at the time, I was doing the best I could under the circumstances surrounding the case.

Q. Had you any reason to favor Bosler in any particular?—A. None at all.

Q. Did you ever favor him purposely?—A. No, sir.

Q. The contracts spoken of were made with a view to the best interests of the service, as far as you could judge, at that time?—A. That was my idea.

Q. Explain with regard to the question of transportation. The contract was dated September 26, yet some of the goods were forwarded, agreeably to your understanding, prior to that time. Did you complete, so far as you regarded it, your contract with Mr. Woolworth prior to his receiving any goods for transportation?—A. We had a full talk prior to his receiving any goods at all, as to all matters connected with the transportation of Indian goods. He did give me a general idea of what they would do it for, with the exception, it may be, of one or two points high up the river. They did not want to take the Berthold goods, which they subsequently did take. He said they would not go up with a boat with less than 150 or 200 tons, or something of that kind. There were two or three minor points like these which had not been settled when he went West, but I said to him that there must be no delay in forwarding the goods. That when they reached Sioux City, if there was a boat there, they must be forwarded at once, and for him to execute the contract as soon as he could and send it back to me and I would execute it on my part.

Q. Did you inform yourself with regard to the responsibility of this transportation company to carry out a contract of that kind?—A. I did inform myself as far as I could, and satisfied myself in my own mind that they were the only parties on that river that could do the transportation I wanted, without being subjected to inconvenient delays.

Q. State whether they owned the largest number of boats on the river?—A. I am told they owned the largest number.

Q. Had you reason to extend peculiar facilities to them. Had you any interest in their contract?—A. Not at all. The only interest I had was to get the Indian goods delivered to their respective destinations at the earliest possible day. We had promised Red Cloud and Spotted Tail that their goods should be delivered to them long before they reached there, and there was a good deal of dissatisfaction in consequence of their not being there earlier. I think I did the best I could to get them up at the earliest moment, and I took every precaution.

Q. In regard to advertising for bacon and beef, in August, did you purposely defer that advertisement in order to give Bosler an extension of his June 17 contract?—A. No, sir; it never entered my mind.

Q. Had you any correspondence with Bosler in regard to the June 17 contract whatever, in which you gave him to understand that you intended to give him an extension?—A. No, sir; I had no communication whatever with him to that import.

Q. State whether or not the first knowledge he had of your intention to give him an extension was your letter of August 10th?—A. I suppose that is the first intimation he had. I did not indicate to any one my intention to do anything of the kind. I found that it became absolutely necessary to extend his contract, or make a new one with somebody else, instead of waiting for a contract under an advertisement.

Q. What delays were usual under an advertisement, and what are the benefits of an immediate supply in an emergency?—A. The ordinary time for advertising, when there is no hurry, is about thirty days. After the proposals are received, the probabilities are that it will take from one to two or three days to canvass the bids. It depends, of course, very much upon the number of bidders, and upon the parties proposed to become sureties. In case the award is made to a successful bidder, it frequently happens that the successful party resides at a distance, and must be written or telegraphed to come on here and enter into the contract, if the letting is here in Washington. He must be prepared with sureties to go upon his bond, and the party, after coming from a distance, finds it necessary to return and obtain his bondsmen, so that sometimes a delay of ten days or two weeks occurs before the contract is finally executed, after the award is made. Then the party goes to work for the first time to make his preparations to execute the contract, getting together his materials in the shape of supplies, so that a considerable further time must elapse before he can commence delivering under it. We have had these experiences in the office, and I know the delays which are incident to them.

Q. Then, to meet an emergency, your office has never regarded it safe to wait for contracts by advertisement?—A. We could not do it very well. When an emergency occurs, we must take all the precaution we can to inquire into the responsibility and ability of the party to execute what he proposes to do, see that the price named is a reasonable one, and make the best contract we can.

Q. In making a contract of that character, do you, or not, consider it reasonable to give the party a greater compensation than he might otherwise obtain?—A. It is generally regarded so.

Q. Did Bosler understand, at the time his contract was made, that he was to take the risk of an appropriation.—A. He understood that perfectly well.

Q. Do you remember when your attention was first drawn to the matter of advertising for beef and bacon?—A. No, sir. I suppose it had been on my mind at different times after the passage of the appropriation bill as well as before, but I could not get to work preparing the thing until probably a week before the 26th. I was in New York, and the matter was overlooked in the office.

Q. I find here in the correspondence, printed, a letter of Mr. Cady, acting commissioner, to the Secretary of the Interior, dated August 13th, stating that the office was about to advertise for proposals for subsisting the Indians. Do you remember whether you were here in Washington, yourself, previous to that?—A. I was in New York. I came here on the night of August 9th, and was here the 10th and 11th. I think I left for New York the night of the 11th.

Q. And while you were here in town you extended the Bosler contract?—A. Yes, sir; and at the same time I probably suggested to Mr. Cady that the preliminary steps be taken toward advertising, under the law, for beef and bacon, providing it had not been done. I have no recollection of that, but that is what I naturally would have done. I have no memorandum on the subject.

Q. In your administration of the office have you, or not, had frequent consultations with your superior officer, the Secretary of the Interior?—A. I had daily conference with him upon every subject relating to Indian affairs.

Q. State whether there was any concealment, upon your part, about what you were doing in regard to supplying these Indians, or whether the Secretary was informed upon the subject?—A. There was no concealment upon my part. My communications were open and free with the Secretary. I wish to say here, as a matter of explanation, that a great deal of the business of the Indian Office, and of the administration of the office, is carried on by verbal conversation with the Secretary of the Interior, of which no memorandum or record is kept. As a matter of course they result in an order or instructions or directions in writing from the Indian Office, and nothing appears on record showing the consultations taken between the Secretary and the Commissioner on the subject.

Q. That is, you take your portfolio and talk with the Secretary verbally about it?—A. Yes, Sir.

Q. Explain whether you talked with him in regard to supplying the Indians as provided for in this contract of June 17?—A. I had frequently talks with him in reference to entering into this contract of June 17. He was aware of the whole of it.

Q. Do you remember whether you consulted with him when you came over from New York?—A. He telegraphed me to come over August 9, the day before the extension.

Q. Do you remember whether you talked over matters relating to the supplies of Indians at that time?—I do not recollect particularly whether we did or not. I know I was in the habit of mentioning all these things, which I considered necessary to be done.

Q. Had you any reason to conceal from him any facts in relation to it?—A. None at all.

By Mr. WELSH:

Q. Are you aware how much beef was furnished under the three million contract of August 10?—A. No, sir.

Q. Will you please furnish the committee with the amount furnished under that contract?—A. I will do so.

Q. From whom did you buy groceries for the autumn supplies?—A. They were purchased from Green & Whattles, New York.

Q. Will you furnish the committee with the rates and quantities?—A. Yes.

Q. Were they public or private purchases?—A. Private; that is, without advertisement.

Q. On the extension of your advertisement in New York for dry goods did you have the approval of the Indian commissioners?—A. I was not aware that an extension of the advertisement was made.

Q. I refer to the change in the form of the advertisement and extension, and I ask you whether the commission did not request you to extend the time, and you yielded to their request?—A. They may have done so. I have no recollection. I know I complied as far as I could with everything they wished in the matter.

Q. Do you know any other parties in interest, directly or indirectly, in either Bosler's purchases or contracts other than those whose names appear?—A. I do not.

By Mr. CHIPMAN:

Q. Explain about the purchase of the Osage presents in New York City after the commissioners had left there, at the time they made their purchases of the annuity goods, how you came to do it, and what the purchases were.—A. On the 15th of July last, Congress passed an act for the removal of the Osages from their lands in Kansas

to the Indian Territory, and required the assent of the Indians to the provisions of the bill. It was on consultation with Secretary Cox that we thought proper, when the Indians were convened for the purpose of acting upon the matter, that we should furnish them subsistence while attending the council, and give them a small amount of presents in the shape of goods, and after the council had closed have these goods distributed. Presents given to Indians who have been convened in council are generally intended for the chiefs and headmen, and are intended to be of little better quality than those ordinarily supplied, and I gave an order in New York, amounting, I think it probable, to about ten thousand dollars, for a variety of dry goods to be distributed among these Indians after the council should have closed their business, for the chiefs and headmen to take home to their families. They consisted of blankets, calicoes, sheetings, and really I do not remember every article I purchased. I have not examined the invoices. I know there were some blankets which, as I understand since, were not acceptable to the members of the Indian commission. I have heard that indirectly from the evidence of Mr. Colyer on the subject. I gave an order to Buckly, Welling & Co., a house in New York dealing largely in Indian goods, for the goods which I proposed to send out to the Osages. I think I gave the order to them for nearly everything.

Q. It was stated by Mr. Colyer in his testimony, that the same blankets which had been offered to that commission while there at $6 80, were invoiced at $8. They were scarlet blankets. What have you to say to that?—A. I have not looked at the bills to see whether the statement is true or not. I presume it is. I did not get the blankets of Amadon, Lane & Co., where they saw them, but of Buckley, Welling & Co., though the latter house may have obtained them from Amadon, Lane & Co., for anything I may know.

Q. When they made their offer at $6 80, how many were to be supplied?—A. My impression is they were to supply something like five thousand pair of scarlet, some four thousand indigo, and a like number of white.

Q. How many in fact were purchased for these presents to the Osages?—A. I think two hundred pair of scarlet.

Q. Would there be any difference in the price of 200 pair and several thousand pair, at the same purchase; and if so, to what extent?—A. I have noticed that bidders, as a general rule, have made a difference where they supply a large quantity. Where the supply was small they would be of very nearly what are termed the market-ruling rates, about manufacturer's prices. Where a large number of blankets were ordered they could generally be obtained at a less price of the merchants than the manufacturers.

Q. Did you buy at the lowest ruling rates at that time?—A. I did.

Q. Did the Secretary know about these purchases that were to be made?—A. Yes, sir; he had ordered it.

Q. Had you any motives in making these purchases of any particular persons, any favorites to whom you wish to extend benefits?—A. Nothing of the kind entered my mind.

Q. Did or not the commission know that these purchases were to be made?—A. I am not positive. My impression is that I mentioned the fact that presents would be sent to the Osages; but they may have got the impression that the Osage goods were included in the aggregates put down in the advertisement.

Q. The presents were a separate matter?—A. They were a separate matter. The advertisement quantities were made up from the amounts to which each tribe was entitled in their annual presents.

By Mr. SARGENT:

Q. Did not Mr. Brunot, a member of the Indian commission, as early as June 3, 1870, call your attention to the willingness of the commission to act under the law, which provided that they should exercise joint control with the Secretray of the Interior over the disbursements of appropriations made by the appropriation act of that year, or any part thereof, as the President might designate; did not the commission call your attention to their willingness to act, by letter?—A. Yes, sir.

Q. How soon after that did you reply to that letter?—A. Not until after the passage of the appropriation bill.

Q. The provision I refer to, in regard to the commission, is in a previous appropriation bill.—A. I understand that.

Q. Do I understand you to say you think the words "Indian goods" do not include flour, bacon, tobacco, coffee, and sugar?—A. My impression is that, in a reading of the law, goods are made a separate item.

Q. Where the law of 1869 provided that they should exercise joint control over the disbursements of appropriations made by that act, did not that, in your judgment, include expenditures for cattle, flour, tobacco, and coffee?—A. Very likely it did, but the execution of that law absolutely, with such a construction, would be utterly im-

possible, for they would have to come to the Indian Office and supervise every disbursement made under the Indian bill.

Q. Would it be impracticable in respect to the disbursement of large sums?—A. No; but if you were to carry out that construction literally, it would be impracticable.

Q. Could it not be carried out substantially where immense contracts were made, like these you have been speaking of this evening?—A. Yes, sir.

Q. By the act of 1869 it is provided that $25,000, or as much as may be necessary, is appropriated for the transportation, subsistence, and clerk-hire of said commissioners while engaged in that service; is your construction that that amount was provided for transportation and subsistence in buying a few dry goods in New York or elsewhere?—A. No, sir.

Q. You speak of the practice of giving contractors more for goods or service, whenever an emergency arises. Would not an emergency be constantly created, if the disbursements were not made and contracts provided for, until the goods on hand were about exhausted, and the Government be compelled to pay higher prices?—A. I presume it would arise if such a practice was adopted. It was not my intention to adopt any practice of that kind.

Q. You spoke of this transportation company having more steamers than any other on the Missouri; do you know how many Haslett & Co., who executed the contract of the Quartermaster's Department, had?—A. No, sir; I never heard of Haslett & Co.

Q. Do you not know that Haslett & Co. are the same company, with the transportation company with which you contracted, and are running the same steamers?—A. No, sir; I never heard of the name before.

Q. As there is so much difference between the prices paid by the Quartermaster's Department and the rates paid by yourself, in making further arrangements of that character would it strike you as judicious that an advertisement should precede a contract?—A. Certainly. If the committee will allow me I wish to say that at no time have I pretended to be an expert in regard to the management of Indian affairs. I entered the office of the Indian Bureau with the duties perfectly new to me, and it may be very probable that mistakes have been made. In looking back I can see many things which I would change.

Q. Where the law expressly requires you to advertise before making contracts, would it require the knowledge of an expert to understand your duty in that respect?—A. Do you refer to the June 17 contract, or to any particular contract?

Q. All of them are required to be advertised by law.—A. I followed the custom and practice that had grown up in the Department, in case of an exigency to purchase in open market.

Q. The law I have referred to expressly gave to the board of commissioners joint control with the Secretary of the Interior over the expenditure of the moneys appropriated for Indian purposes; were you to execute the law, or determine yourself whether it was expedient that it should be executed?—A. I was in consultation with the Secretary of the Interior, who was one of the gentlemen authorized and mentioned in the law.

Q. Do I understand you that Mr. Cox, Secretary of the Interior, advised that the board of Indian commissioners should not be consulted or have an opportunity to inspect these goods?—A. No, sir; I do not wish to be understood as saying that.

By Mr. WELSH:

Q. Do not you remember yourself and the Secretary of the Interior arguing the stringency of the law requiring contracts before the board of commissioners, from the first, and of the remark being made that you could not buy anything until after advertisement; have you no recollection of that?—A. No, sir.

By Mr. CHIPMAN:

Q. You say you followed the custom of the office in regard to purchasing in open market; has or not that been the uniform custom of the Indian Bureau, extending back for many years, to your knowledge?—A. So far as my information goes they have always done that every season.

Q. Have you, in any particular, departed from the custom and usages of the office, in executing the law?—A. I simply followed the custom of the Department in every respect. There are a good many things it is impossible for us to advertise, and which we must purchase in open market, or we cannot get along in the administration of the Indian affairs.

By Mr. WELSH:

Q. Do you speak of the very large sums covered by these contracts?—A. I say there are a great many such emergencies covering large and small sums both.

By Mr. SARGENT:

Q. Can you give any reason why an advertisement for beef could not have been made on the 15th of July last, to be awarded witin ten days or two weeks, or any later

time before the 10th of August, when this contract was extended?—A. As I have said, I was personally very much occupied after the passage of that bill in getting the many appropriations provided for into shape for the purpose of making them available. Aside from that my whole attention was directed to the purchase of the goods. These Indian delegations had been here urging us to furnish them with goods, and subsistence had to be supplied temporarily without waiting for advertisement.

Q. The subsistence was to be provided for September; what prevented contracts under advertisement for these goods before that time?—A. Nothing, except that I was in New York nearly all the time engaged in buying annuity goods.

Q. Were you gone three months?—A. Nearly two months.

Q. Was any one acting as Commissioner?—A. Mr. Cady was acting as Commissioner.

Q. Was there anything to prevent his advertising?—A. No, sir.

Q. Then I understand you to admit that you neglected your duty in not advertising yourself, or giving him orders to advertise?—A. I did not give him orders for the reason that my attention was entirely engaged in New York, as I have stated.

By Mr. CHIPMAN:

Q. State, if you are prepared to answer, if you had taken immediate steps, after the passage of the appropriation bill, giving the usual time for advertising, for completing contracts and delivery of the supplies, whether they would certainly have been delivered to meet the requirements of the service on the expiration of the June 17 contract.—A. I presume if I had made the advertisement at once, and given short notice and short delivery, the thing could have been done.

Q. Would not short delivery and short notice necessarily have resulted in higher prices?—A. There would have been a probability in that direction. I cannot say what the actual result would have been.

By Mr. WELSH:

Q. Did not you get a bid of 3.88 cents per pound for beef when there was only one month's notice?—A. The papers show what the bids were.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., February 3, 1871.

SIR: I have the honor to submit herewith Appendix A, to complete answers to interrogatories made to me, and more fully explained by reference to manuscript copy of my testimony, pages 4, 5, and 100.

Also Appendix B, showing amount paid for beef under extension of August 10, and amount paid under contract of September 26, for bacon, and also the amount paid for transportation under contract of September 26, 1870.

There have been no payments made on the Morrow contract of September 17, 1870. (See manuscript of evidence, pages 50 and 100.)

Also Appendix C, being copies of letters to the Sioux agents, notifying them of the Morrow contract.

Before the Morrow contract was signed, I had left Washington on official business, under orders of the Secretary of the Interior, and returned the latter part of October, when, finding that the agents had not been notified of the Morrow contract, I sent these etters up.

No invoices were sent from the office to agents of the supplies furnished under the June 17th contract by Mr. Bosler. The agents receipted to Mr. Bosler for what they received.

Very respectfully, your obedient servant,

E. S. PARKER, *Commissioner.*

Hon. A. A. SARGENT, *House of Representatives.*

APPENDIX A.

Commissioner Parker's testimony, called for by committee. (See manuscript, pages 4, 5, *and* 98.)

PURCHASES IN OPEN MARKET.

Green & Wattles:		
August 26, 1870—150,000 pounds of coffee, at 21½	$32,250 00	
August 26, 1870—300,000 pounds of sugar, at 11½	34,500 00	
August 31, 1870—20,400 pounds of tobacco, at 65	13,260 00	
		$80,000 00
Jesse Oakley & Co.:		
September 3, 1870.—41,250 pounds of soap, at 9½		3,918 75
Wanamaker & Brown, (for Santee Sioux:)		
August, 1870.—60 boys' coats and pants, at $10		600 00

J. W. Lester, (for Santee Sioux:)		
August 23, 1870.—Women's and boys' hats		$195 00
Buckley, Welling & Co., (for Santee Sioux:)		
August 20, 1870.—Dry goods, &c		4,434 75
Buckley, Welling & Co., (for Osages:)		
August 23, 1870.—Dry goods, &c		7,484 82
Hoyt, Busick & Co.:		
August, 1870.—Miscellaneous hardware for different tribes		4,600 00
G. W. Bruce:		
August, 1870.—Shears and sickles for Navajoes		205 89
Biddle Hardware Company:		
December 30, '70, and January 9, '71.—Implements for Navajoes. Hardware for Pueblos...	$10,751 18	
January 23, 1871.—Hardware for Northern Cheyennes, and Arrapahoes	66 25	
		10,817 43
Landreth & Sons:		
December 2, 1870.—Seed for Navajoes		1,697 75
John Dobson:		
December 12 and 14, 1870.—Blankets for Shoshonees		1,538 00
Purchased by George H. Stuart, esq.:		
January, 1871.—M. Rosenback & Co., shirts for Northern Cheyennes, &c	$328 80	
January, 1871.—Elliott Brothers, goods for Northern Cheyennes, &c	267 80	
January, 1871.—Wilson & Brooburg, blankets and cloth for Northern Cheyennes, &c	1,372 30	
January, 1871.—J. Graham & Co., groceries for Northern Cheyennes, &c	196 54	
January, 1871.—J. Farnam & Co., groceries for Northern Cheyennes, &c	184 45	
January, 1871.—Seed for Pueblos	109 00	
		2,458 89
Poultney & Trimble:		
August 31, 1870.—Rifles for Arickarees		507 50
August 31, 1870.—Rifles for Crows		1,015 00
Buckley, Welling & Co.:		
June 17, 1870.—Goods furnished Spotted Tail's delegation		500 00
June 22, 1870.—Goods furnished Red Cloud's delegation		1,068 58
July 19, 1870.—Goods furnished Indian delegation		727 46

APPENDIX B.

Included in requisition dated November 9, 1870, for 1,222,922 pounds of beef furnished the Indian Department in October, 1870, at 6½ cents per pound.	$79,489 93
Requisition dated November 23, 1870, being for 393,696 pounds of beef furnished the Indian Department November 2 and 3, 1870, at 6½ cents per pound	25,590 24
Requisition dated November 29, 1870, being for 2,391,285 pounds of beef furnished Indian Department in November, 1870, at 6½ cents per pound	155,433 52
	260,513 69
Under contract of September 26, 1870, 531,469 pounds of bacon, at 18 cents per pound	$95,664 42
Transportation under contract of September 26, 1870	179,247 55

APPENDIX C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., December 2, 1870.

SIR: I have to advise you that by contract entered into with J. A. Morrow on the 17th of September, 1870, for furnishing the Indian Bureau with beef for issue to Indians, it is provided that he shall furnish the Crow Creek agency, Dakota Territory, with one million pounds, gross weight; one-ninth of the whole quantity to be delivered between the 1st and 15th of October, 1870, and thereafter the delivery to be made monthly, in such quantities as the Indian agent at said agency shall require; to be of good merchantable cattle, all steers, in good healthy condition, and to average one thousand pounds live weight, to be determined by weighing on scales when practicable; for which he is to receive three cents and eighty-eight one-hundredths of a cent per pound, gross weight, for all the beef accepted under said contract.

I have, therefore, to direct that you will receive, strictly in accordance with said contract, all beef that may have been ready for delivery on time. If the contractor was ready to deliver one-ninth of the quantity to be furnished at your agency at the time specified, you will receive all that may be due up to this time; otherwise, you will only receive such as may have been presented on contract time, and thereafter such quantities as may be required by you; giving, in accordance with the terms of said contract, receipts to the contractor for the number of pounds received by you.

Very respectfully, your obedient servant,

E. S. PARKER,
Commissioner.

HENRY F. LIVINGSTON, Esq.,
United States Indian Agent, Crow Creek Agency, D. T.

William F. Cady, United States Indian agent, Grand River agency, D. T., same as to agent Livingston, substituting Grand River agency for the former.

Samuel D. Webster, esq., United States Indian agent, Yankton agency, D. T., same as the foregoing, substituting Yankton agency.

J. Lee Englebert, esq., United States Indian agent, Cheyenne agency, same as foregoing, substituting Cheyenne agency.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
Washington, D. C., December 2, 1870.

SIR: I have to advise you that by a contract entered into with J. A. Morrow on the 17th of September, 1870, for furnishing the Indian Bureau with beef for issue to Indians, it is provided that he shall furnish the Whetstone agency, Dakota Territory, with 1,440,000 pounds, gross weight; one-sixth of the whole quantity to be delivered on or about the 1st of January, 1871, and thereafter the delivery to be made monthly, in such quantities as the Indian agent at said agency shall require; to be of good, merchantable cattle, all steers, in good healthy condition, and to average 1,000 pounds, live weight; to be determined by weighing on scales, when practicable; for which he is to receive three cents and eighty-eight one-hundredths of a cent per pound, gross weight, for all the beef accepted under said contract.

I have, therefore, to direct that you will receive, strictly in accordance with said contract, all beef that may be ready for delivery on time. If the contractor be ready to deliver one-sixth of the quantity to be furnished at your agency at the time specified, you will receive it, giving, in accordance with the terms of said contract, receipts to the contractor for the number of pounds received by you.

Very respectfully, your obedient servant,

E. S. PARKER, *Commissioner.*

J. M. WASHBURN, Esq.,
U. S. Indian Agent, Whetstone Agency, D. T.

WASHINGTON, D. C., *January* 25, 1871.

WILLIAM MEYERS, captain and assistant quartermaster United States Army, sworn and examined.

By Mr. WELSH

Question. Are you familiar with contracts for transportation?—Answer. Yes, sir.

Q. Be good enough to say whether the advertisement for the contract now shown you includes the right to send Indian goods, and whether the contract itself includes the right to send Indian goods?—A. This is a quartermaster's contract, covering the period from March 20 to October 31, 1870, inclusive, and the contract itself answers your questions; it does include Indian goods. (Contracts referred to appended to this testimony.)

Q. Be good enough to say whether the contractors are to haul by land in case the water is low?—A. The contract specifies that in case boats are unable to reach their destination the transportation must be by land.

Q. Please state the contract price for transporting Indian goods, from March to August inclusive, from Sioux City to the points I will indicate.—A. The rate per 100 pounds—

From Sioux City to Yankton is	$0 75
From Sioux City to Whetstone	1 00
From Sioux City to Brulés	1 10
From Sioux City to Crow Creek	1 25
From Sioux City to Cheyenne or Big Cheyenne	1 60
From Sioux City to Grand River	1 60
From Sioux City to Berthold or Fort Stevenson	2 00

For the month of September the rates from Sioux City to the points named are, per hundred pounds, as follows:

To Yankton agency	$1 50
To Whetstone	1 60
To Brulés	2 20
To Crow Creek	2 50
To Cheyenne	3 20
To Grand River	3 20
To Berthold or Fort Stevenson	4 00

By Mr. CHIPMAN:

Q. These last rates are for September, 1870, as I understand; please give the stipulation with regard to the October rates?—A. They are two hundred per cent. advanced on the rates for March, April, May, June, July, and August.

Q. State, if you know, whether there is an understanding between the contractors and Quartermaster's Department, in bidding for these rates, that the bulk of the goods are to be sent up early in the spring, on the spring rise?—A. The rule with regard to the transportation of supplies by the Missouri River is to advertise early in the spring, ascertaining beforehand the exact amount, as nearly as possible, which will be required at the different posts. The quartermasters usually inform those interested in bidding of the amount intended to reach each particular post, and the bids are made upon the presumption that the bulk of supplies will be shipped at the most favorable period of navigation of the Missouri River, which is the spring rise, commencing in May and extending through the month of June and a part of July. And all the officers of the Government usually make it a point to have their supplies ready for that condition of the river in order to get the supplies to their posts, and also to secure more favorable rates for freights. As a matter of fact, that theory is carried out, or at least has been carried out, to my certain knowledge, during the last ten years in which I have assisted in supplying these posts.

Q. Do you know whether, under the contract now mentioned, there were freights to any considerable extent remaining over these early months into October?—A. No, I do not. My impression is that we have usually been successful in getting off nearly all our freights before July.

Q. The object, then, of providing for later dates was to cover any contingencies of smaller lots to be sent up which could not be provided for earlier in the season?—A. Yes, sir.

By Mr. WELSH:

Q. Do I or not understand that under that contract supplies of every kind could be sent up on ten days' notice for the Indian Department during any of these months? Is not the contract binding upon the man who executes it to do this?—A. The contract so provides, and is equally binding with any other Government contract.

By Mr. CHIPMAN:

Q. Is it not limited as to quantity?—A. I have not read this contract through now. They sometimes state that they will receive goods at any time, but a certain number of days' notice is required to be served on the contractor. That, I believe, is specified in article five of this contract, and I see that it requires ten days' notice to Omaha, Nebraska, or Sioux City.

Q. State whether there is any margin that could have been used for the purpose of transporting Indian goods?—A. I did not have charge of the execution of this contract, and cannot state definitely.

Q. Do you know whether any large quantities of Indian supplies were expected to be sent up in the late months?—A. No, sir.

Q. You do not know whether the Quartermaster's Department could have supplied transportation for any such large quantities under that contract?—A. No, sir, I do not. But contractors could have been required to do the work or suffer the consequence of non-fulfillment.

Q. State whether your Department contracts for transportation for the Indian Department, or whether it is a part of the Quartermaster General's duty to provide for such transportation?—A. That clause, as I understand, was inserted for the purpose of aiding the Indian Department in transporting its supplies and permitting that Department to avail itself of our contract for that purpose. I do not know that there was anything which made it obligatory upon the Quartermaster General to make that arrangement.

Q. Was it such a clause as would authorize your Department to set aside its freight and give place to Indian goods, if the transportation was not sufficient for all?—A. I think Indian supplies would be subordinate to our own in that respect, and my impression is there is some restriction of that sort, that the quartermasters are to forward Indian supplies, if possible. There are, however, no cases that I know of where both could not be forwarded as required.

By Mr. SARGENT:

Q. Was that contract made in pursuance of advertisement?—A. Yes, sir.

Q. Was there competition?—A. Yes, a large number of bidders.

Q. Was there any difficulty on the part of the contractor in carrying out his contract at these rates?—A. I think not.

Q. From your knowledge of transportation in that region, do you consider the rates named in this contract reasonable?—A. Yes, sir.

Q. Is it a good idea to make the rates for September and October relate back to transportation done during the spring and summer months?—A. I think that is a feature imposed upon the Department by the bidders, by those who do the work.

Q. Ought there not to be a difference in favor of the Government by which it would get its freight for the spring and summer months for less than would be fair rates for September and October?—A. Yes, sir.

Q. And any arrangement that did not insist upon that for the Government would be an improvident one?—A. Yes, sir.

By Mr. WELSH:

Q. Do you know Mr. Hazlett?—A. I do not know him personally.

Q. Do you know whether he has any relations to the Northwestern Transportation Company?—A. I do not.

Q. Do you know whether his freight is really taken up by the Northwestern Transportation Company's boats?—A. I have been told that it was taken up by their boats; I do not know it personally.

Q. State whether you could make a contract for full rates, in the fall, or during the months when freight had to be carried in the fall, at as favorable rates as you could make in the spring, with the arrangement under which the contract was made, reaching over into fall?—A. No, I think not; I think you could not get as favorable rates by making the contract in the fall as you can by making it in the spring; I am now talking of our own Government transportation; these rates are made to cover all contingencies of shipment, and enable the contractor by the profits he makes on the spring work to provide for possible loss on a single trip in the fall; for instance, in 1869, I remember two or three boats were sent up in the fall, as late as October, and they were all three ice-bound, involving, as I understand, a loss of from $10,000 to $15,000 to the contractor; they were ice-bound in the neighborhood of Fort Stevenson.

WASHINGTON, *January* 25, 1871.

L. H. ROBERTS sworn and examined.

By Mr. CHIPMAN:

Question. What occupation have you followed up to 1870?—Answer. I was for some time engaged at the Cheyenne Indian agency, Dakota Territory, as surveyor.

Q. Were you at any time left in charge of that agency by Major Randall?—A. Yes, sir.

Q. When was that?—A. I really could not give the date; I am under the impression that it was in June, 1870, and I think the latter part of June.

Q. Where was Major Randall?—A. He left with a delegation of Indians for Washington.

Q. Did he put the agency in your charge?—A. He did.

Q. What was the condition of the agency at that time as to supplies?—A. It was very poorly supplied. I recollect there was considerable talk, about that time, that if supplies did not soon reach the agency there would be trouble.

Q. Do you remember when cattle were brought there under the Bosler contract?—A. I do not remember the date; it was, I should say, about the middle of July.

Q. Were you called upon then, as acting agent, to receive them and decide as to their weight?—A. I was.

Q. State what you did in the premises?—A. I first consulted Captain Pearson, then

brevet lieutenant colonel and commandant at that post. The scales at the post had been torn up, and were utterly worthless. He said he hardly knew what to advise me, but finally suggested that if I went down to Fort Sully and got an agent there to assist me in judging of the weight of the cattle, it was the best that, under the circumstances, could be done. I went to Fort Sully and consulted with General Crittenden, the commander of the post being away, stated to him the circumstances and asked for assistance. He said we would go around and find who was in the habit of judging on that subject. I looked around and found Captain Irvine, of the Twenty-second Infantry, who had had a large experience in judging of the weight of cattle for the Quartermaster's Department, and who was that day the officer of the day at the post. I reported to General Crittenden, who relieved Captain Irvine as officer of the day, and he returned with me to the agency. Joseph Bosler, a brother of the contractor, was in charge of the cattle. I felt embarrassed, and did not want to do anything in Major Randall's absence, for I had discharged Major Randall's head clerk, and expected his censure in consequence. Bosler said his brother, the contractor, had directed him to leave the best cattle at that agency. Captain Irvine rode through the herd of, I think, 450 head, and judged the weight to be 1,200 pounds each. This seemed to be satisfactory to Bosler, and I was asked whether it was to me. I told him I was not competent to judge, but that if it was satisfactory to Captain Irvine it was to me, and I would receive the cattle at that rate.

Q. Was that the best you could do under the circumstances?—A. It was the best I knew how. We had no other means of arriving at the weights.

Q. After Major Randall's return did he make some complaint of what you had done?—A. He did.

Q. Was anything done in relation to the matter?—A. Major Randall, on his return, seemed to be very much dissatisfied with all my proceedings, and rather inclined to find fault. One objection he made was, that I had received the cattle on the opposite shore of the river from the agency. I did this on the advice of Captain Allison, and for the reason that there was a valley on that side of the river which would furnish much better pasturage. Major Randall also found fault with the weight of these cattle. He had the scales put in as good repair as possible, weighed some of the cattle, and reported that they fell short more than a hundred pounds. In the mean time, however, the best of the cattle had been killed.

Q. Did you forward to the Indian Office the evidence upon which you arrived at the average weight?—A. I did.

Q. What did that evidence consist of?—A. I stated that I had received a certain lot of cattle from Mr. Bosler; that I went to Fort Sully and consulted General Crittenden, and acted upon his advice as to what should be done under the circumstances.

Q. Do you know whether the scales at the agency were so repaired as to give correct weights after Major Randall's return?—A. I am not a judge of that. I told Major Randall that I did not consider them accurate by any means. He said he did not know whether they were or not, but that we must have something to go by.

Q. What was the condition of the agency as to supplies when the second lot of cattle were brought over by Mr. Bosler?—A. We were needing supplies very much, and were very glad to receive them.

Q. Prior to the receipt of the first lot of cattle what was the disposition of the Indians?—A. They were very hostile. Our supplies were short, and I consulted with Captain Pearson as to the best mode of making them hold out as long as possible.

By Mr. WELSH:

Q. You say you sent the evidence on which you received these cattle at the weight you did, to the Department; did you send any other evidence than the letter you wrote on the subject?—A. No; that was all. I refer to my letter of August 21, 1870. (Letter referred to printed in the Appendix.)

Q. Did you ever send the certificate of Captain Irvine, or of any other officer, on that subject?—A. No, sir.

Q. Have you any such certificate in your possession?—A. No, sir.

Q. You say you were not accustomed to estimating the weight of cattle; do you recollect the form of the receipt which you gave for these cattle?—A. I do not. I committed an error in not retaining a copy of the receipt.

Q. The receipt which is on file here gives the number of pounds net; how did you ascertain the net weight?—A. I consulted the officers there, and they said the gross weight must be double the net.

Q. Did you know the weight of these cattle at any other agency?—A. I did not.

Q. Were you informed that other articles fell short which were received by you, as well as cattle?—A. I was, and which I very readily corrected with Major Randall.

Q. Do you know whether the articles were paid for by the weight as corrected, or by the original certificate?—A. I presume, by my original certificate, which proved to be correct. I got Major Randall to go back and re-weigh enough of these articles to satisfy him that my certificate was correct, and he so changed it in his report.

Q. Can you tell me whether that letter of August 20 contains the correct weights?—A. Major Randall reported to me that he had so corrected his report; at least, I so understood him.

Q. Do you know whether the flour and all those articles were actually weighed?—A. They were not all weighed, and that was never done for any contract on the Missouri River that I am aware of. A part of it was weighed, enough to satisfy us that the weights estimated were correct.

By Mr. SARGENT:

Q. How did you ascertain and report to the Indian Department that you received twenty thousand pounds, if the bacon was not weighed?—A. I took the advice of the quartermaster, and got at it as is usually done. We weighed a portion of the sacks, and finding the weight marked on them to be correct, we took the others at the weights marked. The sacks weighed were selected indiscriminately from the entire amount.

Q. Did you have any invoice describing the qualities of the goods, &c.?—A. We had the bill of lading of the boat.

Q. Do you know about eighty head of cattle being stampeded that you received on the west side of the river?—A. I know from report. Quartermaster Goodloe sent up to Major Randall that he had about eighty head of his cattle down in his quartermaster's herd. Major Randall did not send for them for several days, and when he did send the report was that they had stampeded again, or something to that effect, so that he did not get them all.

Q. Do you know that Major Randall complained that cattle had been received at an average of twelve hundred pounds a head when the actual weight was nine hundred and thirty-four pounds gross?—A. I do.

By Mr. BECK:

Q. At what date did you receive these cattle from Bosler?—A. The receipt on file here states the date—July 29.

Q. How many did you receive?—A. I am not quite sure; I think four hundred and fifty head.

Q. And you averaged them at twelve hundred pounds gross, or six hundred pounds net?—A. Yes, sir.

Q. How far from the agency did you receive them?—A. It was at the Little Bend, on the opposite side of the river, probably from five to seven miles.

Q. And you kept them there in the valley where there was good grass?—A. That was one object in keeping them there; another was to prevent them from being ravaged by the Indians.

Q. From the time you received them until the middle of July or August should they have fallen off or improved?—A. Under ordinary circumstances they should have improved; but the valley was swept over by a big fire, the season was very dry, and I think they would have fallen off some.

Q. Who guarded your cattle?—A. They were agency men in charge.

Q. You were in the habit of killing them just as you wanted them?—A. Yes; we killed, every Saturday, as many as we wanted.

Q. What stampeded these cattle?—A. We had one severe wind; but cattle will stampede if they are not carefully watched.

Q. Were these all Texas cattle?—A. I do not know. The quartermaster at Fort Sully told me that he had received at that post what they said were American cattle; and after looking at these cattle he said they were a better lot than his; and Captain Irvine, who is a good Christian man, told me that these cattle taken from Bosler were a better lot than the ones I have referred to; he said some of them were not Texas cattle, and that as a lot they were very fine cattle indeed.

WASHINGTON, D. C., *January* 27, 1871.

THOMAS T. BUCKLEY sworn and examined.

To Mr. CHIPMAN:

Answer. I reside in Brooklyn, New York; I am engaged in the dry-goods jobbing business, at 382 Broadway, New York; the style of the firm is Buckley, Welling & Co.

Q. Did you sell a bill of goods to be sent to the Osage Indians, about the 23d August, 1870, to Commissioner Parker?—A. We sold a bill of goods that were shipped to the Indians; I should think about that date.

A copy of a bill of goods sold by Buckley, Welling & Co., to the Commissioner of Indian Affairs on the 23d August, 1870, was put in evidence, as follows:

NEW YORK, *August* 23, 1870.

United States bought of Buckley, Welling & Co., Nos. 380 *and* 382 *Broadway, corner White street.—For Osages.*

2 cases gray list cloth:	
No. 5309, 469 yards, No. 5310, 467¾—936¾ yards at $1 80	$1,686 15
Straps	75
2 cases scarlet S. L. cloth:	
No 5235, 499¾ yards, No. 5282, 497¼ yards—997 yards at $1 70	1,694 90
Straps	75
2 bales Mexican blankets:	
No. 3917, 100, No. 3970, 100—200 blankets at $6 50	1,300 00
2 pair wrappers, at $3	6 00
4 bales 3-point scarlet blankets:	
No. 324, 50 pair, No. 329, 50 pair, No. 297, 50 pair, No. 386, 50 pair—200 blankets at $8	1,600 00
4 pair wrappers, at $3	12 00
Case 113:	
50 dozen butcher knives, at $4	200 00
2 pieces S. L. scarlet cloth, 65½ yards, at $1 70	111 35
Case and strap	1 75
9 barrels sugar, 2,175 pounds at 12½ cents	271 88
6 bags coffee, 962 pounds at 22 cents	211 64
5 boxes tobacco, 548 pounds at 70 cents	383 60
6 sacks, at 30 cents	1 80
Cartage	2 25
	7,484 82

The above bill is correct.

E. S. PARKER, *Commissioner.*

Q. Look over that bill of goods and see if you can recollect from the items enough to speak with any certainty as to that being the bill or a copy of it.—A. There are two items here which I can recollect; two bales of Mexican blankets, and four bales of three-point scarlet blankets. My attention was called to them by Mr. Dodge.

Q. Were those the only items about which you were spoken to?—A. Yes.

Q. They are the only items about which any question has arisen?—A. So far as my knowledge goes.

Q. Explain the quality of the four bales of scarlet blankets, and where you purchased them.—A. The four bales of scarlet blankets were purchased by sample from Amidon, Lane & Co., manufacturers and merchants of New York.

Q. What is the price of those blankets, as stated in that bill?—A. Eight dollars per pair.

Q. State whether that was the ruling price at that time.—A. Eight dollars per pair is lower than we sold the blankets for as a general thing. We sold those blankets to the Indian Commissioner for $8 a pair. The cost is $8, less 5 per cent. and 5 per cent.

Q. Is that equivalent to 10 per cent. discount?—A. It is a little less than 10 per cent. It is 5 per cent. off first, and then 5 per cent. off the balance. That was as cheap as we could buy them in the market.

Q. Explain what you had to do with Mr. Dodge?—A. Mr. White, the inspector who inspected the goods which were sold to the Government by contract, called at the store and stated that Mr. Dodge wanted to see me, and they had a sample of blankets sent back to them from the lot which we had furnished to the Osage Indians. He stated that this was a sample from one of the bales, and I understood, from the letter he had at that time, that the other three bales were satisfactory. After receiving this message I called on Mr. Amidon and asked him to go down with me and see Mr. Dodge, and see what was the matter with the blankets. I said that we had bought them from him by sample, and had sold them to General Parker by sample; that we had marked them and shipped them in that condition, and presumed that they were equal to the sample. Mr. Colyer's letter, which Mr. White had, complained of that particular pair and particular bale as not being equal to the sample.

Q. Did anything else transpire at the interview?—A. I introduced Mr. Amidon to Mr. Dodge, and Mr. Amidon explained fully about the blankets. It was a very good blanket, but the color was dark. He said that he was surprised at the color, and that it must have been a mistake in shipping the bale. That was about all in regard to the scarlet blankets.

Q. Were they inferior only in regard to the color making them of less value, or were they in fact inferior for the purposes of use?—A. The wool was good, hard twisted, and the blanket was not as nappy as usual. It was a serviceable, strong, heavy blanket, that is, the sample I saw there. I never had seen the blankets before. I did not see

them when we shipped them. We bought them, as I said, by sample, and presumed that Amidon, Lane & Co. had given us the blankets according to the samples.

Q. Explain as to the other blanket.—A. The Mexican was complained of as being a loose and slimsy blanket. They were the same blankets that we sold for some little while. They are manufactured by Mr. Dobson, of Philadelphia. They are a blanket that we never had complained of, and in fact we were not able to procure as many bales of them as we had orders for from other parties. We sold them at less than the usual rates. We sold them at $6 50. We paid Mr. Dobson for them $6 25, less, I think, 5 per cent. and 5 per cent. I am not certain in regard to the discount, but I think there were 5 per cent. trade discount and 5 per cent. for cash.

Q. They are all, I understand, embraced in this one bill of goods sent to the Osage Indians.—A. Yes, sir.

Q. Do you remember to whom they were consigned ?—A. I do not.

By Mr. SARGENT:

Q. Were you one of the sureties of Amidon, Lane & Co. in their bid ?—A. Yes.

Q. Henry J. Marshall is the other ?—A. Yes.

Q. Do you not know that the kind of blanket which you first described was offered by Amidon, Lane & Co. to the Commissioner for $6 80 ?—A. Yes, sir, they were offered at that price, but that was for a very large lot of blankets, and this bill was only two or three bales. The price we paid for them was $8, which was the lowest price they could be bought for in the market.

By Mr. LAWRENCE:

Q. Where were they manufactured ?—A. In Philadelphia.

Q. Both they and the Mexican blankets were manufactured in Philadelphia ?—A. Yes, but the Mexican blankets were manufactured by Mr. Dobson, who also manufactures scarlet blankets; but we could not buy them from Mr. Dobson, owing to his having taken the contract to furnish the Government, and not having them to deliver to buyers.

Q. Does the Government generally buy of wholesale dealers or of manufacturers ?—A. They buy where they can buy the cheapest, I presume.

Q. Did the Commissioner know where these blankets were manufactured ?—A. Yes, sir; he saw the blankets.

Q. They could be bought, of course, cheaper from the manufacturer than from the dealers ?—A. We buy them from the manufacturer. The manufacturer, of course, if he can get an order to make a large amount of blankets, can make them and sell them on that order much cheaper than he can if he has to make them for a market, because the interest, storage, insurance, and all these things add very much to the cost. Eight dollars was the cheapest price the blankets could be bought for in the market, and Amidon, Lane & Co. were the only ones who had the blankets. When General Parker came into the store to buy these blankets, he had a telegram from Mr. Colyer, I believe, urging the shipment of those goods immediately. He remarked that Mr. Colyer was very urgent for them, and that he could not get them from Mr. Dobson, as I understood, and he wanted to know if we could give him these two bales of blankets. We got the samples, and showed them to him, and he considered them good blankets. The samples which we showed General Parker were certainly as good as those of Mr. Dobson.

By Mr. SARGENT:

Q. Are you large dealers in blankets ?—A. We sell a good many blankets.

Q. Do you deal largely with Amidon, Lane & Co. ?—A. Yes; and with Dobson & Co.

Q. Do you sell largely of these $8 blankets ?—A. Yes, sir; a good many of them.

Q. What did you pay Amidon, Lane & Co. for them ?—A. Eight dollars, less 5 per cent. and 5 per cent.

Q. If you, buying largely from Amidon, Lane & Co., paid $8 for them, how could the Indian Commissioner get them at $6 80 ?—A. Because they offered to furnish a number of thousand pairs of blankets.

Q. You are aware that they offered them at $6 80 ?—A. Yes, sir.

Q. Are you aware that the Commissioner obtained at that price a far superior article of blanket to that which you sold for $8 ?—A. No, sir; I am not. We consider those blankets as good as Mr. Dobson's, and they are so considered by the traders.

Q. Are not these blankets smaller in size, and meaner in quality than Mr. Dobson's ?—A. No, sir; they ought to be the same size and of as good quality. They are made of good wool, but they are twisted a little tighter, and are not so flossy as Mr. Dobson's blankets.

Q. Can you give the size of those blankets ?—A. I cannot give the inches, I can give it by pound weight. They should be eight pounds per pair.

By Mr. CHIPMAN:

Q. Is there not some rivalry between those two establishments ?—A. Yes; there has always been a contention between them.

Q. The Philadelphia people contend that their blankets are the best?—A. Yes; and Mr. Amidon thinks that his are the best.

Q. You spoke of having supplied the trade outside.—A. Yes.

Q. And from what the traders expressed to you, you state that the one blanket is as good as the other?—A. Mr. Baker, of Fort Dodge, to whom we sell these blankets, prefers the Amidon blankets because there is more wear in them. Other traders prefer Mr. Dobson's blankets, as being a flossy, showy blanket. We sold a great many blankets to traders at Leavenworth, and they have, for the last year, bought Amidon, Lane & Co.'s blankets of us.

By Mr. SARGENT:

Q. How many years have you sold Indian goods to the Department?—A. We have sold at different times. I think we have had three or four, or perhaps five contracts at different times. We have sold Indian goods for quite a number of years.

Q. To the Department?—A. No, not to the Department, but to the traders in Indian goods.

Q. Who are your partners?—A. Mr. Woolley, Mr. Wheeler, Mr. Frost, and my son.

Q. Who is Mr. Wheeler?—A. Mr. DeWitt Clinton Wheeler.

R. Did Mr. John J. White inspect these Osage goods?—A. No, sir; I have said that these goods were bought by Mr. Parker by sample, delivered to us, and shipped without being examined.

Q. Have you any knowledge of an item of $1,000 for 10,000 pounds of flour sold by your firm?—A. I have no knowledge of it; I do not recollect any such transaction.

By Mr. LAWRENCE:

Q. Do you deal in flour?—A. No, sir; we do not.

By Mr. WELSH:

Q. Can you say whether yourself or any member of your firm was interested, directly or indirectly, in any other goods than dry goods; were you interested in provisions, flour, tobacco, freight, or any other transaction of the Indian Department during the last year?—A. I have no knowledge of anything of the kind, except a little purchase that we made of 9 barrels of sugar, 6 bags of coffee, 5 boxes of tobacco, and 50 dozen of butcher knives, which we were required to get and forward with those Osage goods.

Q. Was your firm interested in the purchase of Green & Wattles?—A. No, sir.

By Mr. SARGENT:

Q. Did the board of Indian commissioners inspect any of the goods purchased from your firm by Commissioner Parker?—A. Yes, sir. The great bulk of them was inspected by the inspector.

Q. Did they inspect any of the goods sent to the Osage Indians?—A. No, sir; I think they were not inspected.

By Mr. WELSH:

Q. Were any of the goods examined, except those that were advertised for regularly?—A. The goods that were furnished to Red Cloud and his band were on an order for presents for them. They came to the store with their agent, or the officer in charge of them, and they selected the goods themselves, such as they wanted, and put them in trunks, and took them away with them.

Q. Do you know whether any goods bought by Mr. Parker himself were examined by Mr. White, or only those that were bought in conjunction with the commission?—A. I think not. I think that Mr. Parker examined them, and certified to them himself.

By Mr. CHIPMAN:

Q. State whether the articles embraced in this bill were purchased at the lowest market rates at that time, and were sold to General Parker at the ruling rates at that time?—A. They were.

By Mr. SARGENT:

Q. Is Mr. White a member of the Indian commission?—A. Not to my knowledge. I understood that he was an inspector appointed by the commissioners.

WASHINGTON, D. C., *January* 27, 1871.

EDWARD H. AMIDON sworn and examined.

By Mr. CHIPMAN:

I reside in New York. I am of the firm of Amidon, Lane & Co., dry goods merchants and manufacturers.

Question. Did you supply to Messrs Buckley, Welling & Co., in August last, any blankets that were to be sent to the Osage Indians?—Answer. I believe we did. I had

no special knowledge of it at the time, but I think I am justified in saying, from what I learned afterward, that we did supply some blankets for the Osage Indians.

Q. How many?—A. I think, 200 pairs, that would be 400 blankets.

Q. What color were they?—A. Scarlet.

Q. Did your firm make a bid for a certain quantity of blankets at a certain rate; if so, what was that bid?—A. In the spring of 1870 we made a bid for the whole amount of blankets wanted by the Indian Department, I think, about 14,000 pairs.

Q. Was that about the time that the board of commissioners were in New York?—A. I believe it was; I do not recollect the date, but it was at the time the blankets were wanted, and they were to be delivered very soon after we made the bid.

Q. What was your bid?—A. That I cannot tell now.

Q. I find here, in a bill of goods furnished to the Indian Bureau by Buckley, Welling & Co., on August 23, 1870, four bales of scarlet blankets, 200 pairs, at $8 per pair, to be sent to the Osage Indians; are those the blankets that you furnished to that house?—A. I presume they are, from what I have since heard, but I cannot swear that they are. Buckley, Welling & Co. bought four bales of blankets from me; I did not know then to whom they were to be sent. They bought them as low as they could buy them at that time from me, and I got as much price out of them as I could get at that time. Some time after that, Mr. Buckley called upon me and said he had received information that there was some complaint in regard to these blankets which I sold to him, and that they had gone to the Osage Indians. From that circumstance I infer that those are the four bales of blankets to which you refer.

Q. Tell what you know about the transaction.—A. Mr. Wheeler, of Buckley, Welling & Co., called on me to know if I had scarlet blankets for sale; I told him I had; he wanted to see the blankets, and I showed them to him; he wanted to know the price, and I told him a dollar a pound—that that was the lowest price; he finally made a proposition to buy them, with an extra 5 per cent. discount, and I sold them at that price; I gave the memorandum to my invoice clerk, and told him to deliver four bales of those blankets to Buckley, Welling & Co.; that was the last I heard of the transaction until the complaint occurred; I was called on by Mr. Buckley, who wanted me to call and see Mr. Dodge; I did so, and Mr. Dodge exhibited samples of the blankets, which he stated had been received by the Osage Indians, asking Mr. Buckley if that was one of the blankets he had sent out; Mr. Buckley asked me if that was one of my blankets, and I told him I thought it was; Mr. Dodge asked me if I thought that that was the proper sort of blanket to send to the Osage Indians; I told him that the blanket was as good a blanket as the Indians had ever had, except in color; he seemed to be under the impression that there was some shoddy in it, and untwisting the yarn out of which the blanket was made, it appeared that some of the inside fiber of wool had not been thoroughly dyed, which gave him the impression that the blanket was not good; I explained to him that the reason why the blanket had these defects was, in the first place, that it was a very well-made blanket; that the yarn had been spun so tight that it did not take the dye properly, and that it would probably outwear any blanket which could be produced, but that it had been spoiled in the dyeing; that the dyer had probably left it in the dye too long, and that it had taken too deep and dark a color; it was as good a blanket for wearing purposes as I ever saw, as strong and well made; it was probably the strongest kind of that sort of blanket that I ever saw, but it was a bad-looking blanket; on my return to the store I looked into the matter, and found on the invoice book against the number one, of those four bales, were written the words, "bad for color," and on referring to the invoice book of the factory it appeared that it was entered in that book in the same way. Of course, making so many blankets as we do, two blankets a minute, we spoil some; those spoiled blankets are always laid aside and shipped by themselves, and against them, on the invoice book, is indicated the defect; it appears that the shipping clerk to whom I gave the orders to deliver those blankets to Buckley, Welling & Co., gave them that bale of blankets, among the others, without observing it; I never heard of it until it was opened where it was delivered, to be used; I saw the letter which Mr. Gibson, the agent there, wrote to Mr. Dodge, in which he stated that one bale of that lot of four was very bad in some respects, and that the others were much better; the explanation which I gave you shows how it occurred; I explained all of that to Mr. Dodge, and also exhibited samples of the same material precisely, but dyed properly; I think I fully satisfied him that the blanket was a good blanket, with the exception of the defect in dyeing, and I offered to send for that bale, at our own expense, and deliver another bale, at our own expense, or to do anything that he cared to have done about it; that was the way in which the matter was left.

Q. Were the blankets, with the exception of color, as good for all purposes as the others sent at the same time?—A. Yes, undoubtedly.

Q. This mere defect in color would not deteriorate the value of the blanket for its use?—A. Not in my opinion. These blankets were very much more serviceable than such blankets ordinarily are.

Q. Would there be a difference in the price you will take between supplying four

bales of blankets and supplying 14,000 pairs?—A. There would be a difference. As a manufacturer, I can afford to take a contract for a large quantity at a definite price, for goods to be delivered as soon as manufactured, at a lower price than I can afford to sell goods which I make for the market, and have all the expense and risk of keeping for the market. In the first case I lose no interest, no expense of stock, and run no risk; I get my money as fast as the goods are made. In my opinion there is ten per cent. difference between the price I would be willing to contract for in large quantities and the price I would be willing to make the same goods for for open market.

Q. Examine the item of four bales of scarlet blankets charged in this bill, and state whether the amount charged for them there is the proper price.—A. I see they are charged here at $8 a pair.

Q. State what relation that bears to the ruling rates in the market at that time.—A. Scarlet blankets then and now were worth a dollar a pound. I am selling them now at a dollar a pound. I sold those blankets to Buckley, Welling & Co. at a dollar a pound, with an extra discount. I am in the habit of selling them goods, as they are large purchasers, at less than I sell to anybody else.

By Mr. SARGENT:

Q. How large purchasers are Buckley, Welling & Co. of you?--A. I am the only manufacturer of this class of goods besides John Dobson, and they probably buy from me to the amount of from $10,000 to $20,000 a year. The amount varies very much. Some years they sell very few blankets, and again they sell a great many. They buy from me in large quantities.

Q. Do you manufacture for them to order, or do you sell from your stock?—A. I never have manufactured for them to order.

Q. If your bid had been accepted by the Indian commission, would you have taken those blankets from the stock on hand?—A. I had but 5,000 pairs on hand at the time, and this bid was for 14,000 pairs.

Q. Then you would have furnished what you had on hand, and filled up the order by running your manufactory at the rate of 2 blankets per minute, as you say?—A. Yes.

Q. If Buckley, Welling & Co. buy as large quantities as you say, why did you make such a difference against them as that between $6 80 to the Commissioner and $8 to them?—A. I think I can make that very clear to you. The bid to the Commissioner was for 14,000 pairs of blankets, I think, and in that 14,000 but a small proportion was to be scarlet blankets. The price I bid on the scarlet blankets would not leave me a cent of profit; but the price I bid on some other colors would bring me some profit. On the whole, however, I made a very low bid for that contract. As I never had had an Indian contract and was desirous of introducing myself to the Department and making those goods for the Government, I thought it my interest to make an effort to get this contract, and I therefore made a very low bid; and you will find that the goods were actually taken by the Government at a higher price than my bid.

Q. From whom?—A. From John Dobson.

Q. Do you say that the blankets bought from John Dobson at $8 a pair were not superior to the blankets you have described?—A. I think the scarlet blankets were bought from John Dobson at $7 a pair. I bid at $6 80.

Q. You say that their blankets at $7 were not superior to yours at $6 80?—A. Yes, I say so; they were not as good.

Q. Do you charge as much for the blankets that are defective in color or in any other respects as you do for the perfect article?—A. No, sir; we make a heavy discount.

Q. If those goods had been properly inspected by Mr. Parker before they were shipped, would not this defect have been discovered?—A. I think so.

Q. And the Government would have saved at least the difference between the price of the defective article and the price of the perfect article?—A. I would have substituted the perfect article for the other.

Q. Or, if the Government had taken the other article with its defects, it would have got it at a discount? Yes.

Q. Who were your sureties on your bid?—A. Mr. Buckley and Mr. Marshall, I think.

By Mr. CHIPMAN:

Q. I understood that in your bid for the 14,000 blankets, there were comparatively few scarlet blankets?—A. I think 2,700 scarlet blankets.

Q. Would you have bid for 14,000 scarlet blankets at $6 80?—A. No, sir; I meant to convey that impression to you that I would not have bid for scarlet blankets so low.

Q. Were you furnishing any scarlet blankets to the trade at that time, August 23?—A. Yes, to the merchants who deal in that article.

Q. What were the rates then?—A. $8 for that quality of blanket.

Q. And the Government paid no more than other persons paid at that time?—A. No, sir; no more than I was getting for them from everybody at that time.

Q. What would you have furnished 14,000 pairs of scarlet blankets to the Government for at the time you made this bid?—A. Of course I cannot judge exactly now

what I might have done; but I should think I would have furnished them at 92½ or 95 cents a pound, which is $7 40 to $7 60 a pair.

WASHINGTON, *January* 27, 1871.

Major B. DUBARRY sworn and examined.

To Mr. WELSH:

I am a commissary of subsistence of the United States Army; I am on duty in the office of the Commissary General of Subsistence, as one of the assistants to the Commissary General of Subsistence.

Question. State the price and number of cattle contracted for, to be delivered on the Missouri River, in the contract made June 18, 1869, which was to terminate on June 18, 1870.—Answer. I have here a copy of the contract made on the 18th of June, 1869. It was made with Edward Fenlon, at the rate of $4 44¾ per hundred pounds, dry weight.

Q. Were the cattle to be kept at the contractor's risk and expense until needed, or were they to be delivered in bulk?—A. Their delivery was to commence on the 31st of July, 1869, and to continue until the number provided for by the contract was delivered, at specified rates per month, the rate being different for the different points at which they were to be delivered. The contract runs that the "beef cattle provided for at the respective places named are required to be held by the contractor sufficiently near thereto, that he may with certainty, and at the rate and under the conditions above specified, deliver them weekly, semi-monthly, or monthly, as the officer or agent of subsistence of the Department may require." The whole number comprised in this contract of the 18th of June was 9,075.

Q. After the completion of that contract, was any other contract made?—A. On the 6th of July, 1869, a supplementary contract was made with Edward Fenlon. The supplementary contract was for the same rate as the other and for the same number of cattle; it only made a change in the points of delivery from the first contract.

Q. Then it is only a repetition of the first contract, changing the place of delivery?—A. Not exactly a repetition, because it does not repeat all that is in the first contract, but it refers to the first contract. Subsequently, a proposition was made by the contractor, Edward Fenlon, to furnish any additional number of cattle that might be required at the five points named in the supplementary contract, (three points only being named in the original one,) at $4 20 per hundred pounds, gross weight, during the continuance of said contract—that is, up to June 30, 1870. That proposition was accepted by General Clark. The date of it was 21st of September, 1869. That was to extend up to 30th June, 1870, and was to embrace all the cattle delivered over and above the total of 9,075, provided for by the first contract.

Q. Is there any limit as to the amount of cattle you could call for under the proposition of 21st of September, 1869?—A. I find no limit assigned in it. The contractor agrees to furnish all the cattle required, at $4 20 per hundred pounds.

(The papers referred to by the witness are annexed to the testimony.)

Q. If the Commissioner of Indian Affairs had called on you for cattle before the 30th of June, 1870, could you have furnished him with cattle under that contract?—A. Yes, at those points. All what the contractor furnished in excess of 9,075 was to be furnished at $4 20 per hundred pounds gross.

Q. Did the Commissioner of Indian Affairs send to your office to ascertain what supplies would remain over on the 30th of June, 1870, or what supplies it would be possible for you to give him?—A. I do not recollect of it.

Q. Have you charge of the office here?—A. I have not charge of the office, but, as assistant to the Commissary General, I see pretty much everything that comes in. My province at that time was to see everything that came into the office. The papers pass through my hands, and I open and hand them to the chief, or distribute them, according to their nature.

By Mr. CHIPMAN:

Q. I understand that this contract provides for supplying cattle up to June 30, 1870?—A. Yes, sir.

Q. Does it make provision for supplies beyond that time?—A. Not beyond that time.

Q. Are you aware that a correspondence took place between the Interior Department and the War Department, relative to supplies beyond that period?—A. There was some correspondence.

Q. Do you recollect the purport of it? Do you recollect generally whether the office said it could furnish the Indian Bureau beyond June 30, 1870, or that it could not do so?—A. I do not know that the office said so, but my recollection is that we had no authority from the Secretary of War to furnish cattle beyond the 30th of June; that is, beyond the period covered by the $2,000,000 appropriation.

Q. The period covered by this contract ended June 30, 1870?—A. Yes.

WASHINGTON, D. C., *January* 27, 1871.

GEORGE A. MERCER examined.

By Mr. SARGENT:

Answer. I am a clerk in the Treasurer's Office of the United States.

Question. Have you a list of Treasury drafts drawn in favor of C. D. Woolworth, secretary of the Northwest Transportation Company?—A. I have, and here deliver it.

List of Treasury drafts drawn in favor of C. D. Woolworth, secretary Northwestern Transportation Company, indorsed by him to J. W. Bosler, and by him indorsed.

Number of draft.	Number of Interior warrant.	Date of draft.	When paid.	Amount.
1212	1233	October 28, 1870	October 29, 1870	$67,913 32
1213	1234	October 28, 1870	October 29, 1870	32,221 97
1269	1397	November 9, 1870	November 10, 1870	50,773 46
1363	1398	November 30, 1870	December 1, 1870	4,480 50
1364	1397	November 30, 1870	December 1, 1870	16,425 30
1382	1429	December 10, 1870	December 22, 1870	3,961 75
1423	1470	December 19, 1870	December 22, 1870	3,471 25
				179,247 55

Q. Do you know to whom these drafts were indorsed, if to any one?—A. They are all indorsed to J. W. Bosler, and by him indorsed to Jay Cooke & Co., New York.

(Witness produced the original drafts, which were all so indorsed.)

WASHINGTON, D. C., *January* 27, 1871.

General M. C. MEIGS sworn and examined.

To Mr. WELSH:

I am Quartermaster General of the United States Army. I have here a copy of the advertisement for proposals for the transportation of goods for my Department from March 20, 1870, to October 31, 1870.

Question. From and to what points?—A. From St. Louis to Sioux City, from Wyandott to Sioux City, and from Fort Leavenworth to Sioux City.

Q. Does it include from Sioux City up the river?—A. Yes, from Sioux City to Yankton agency, Fort Sully, &c. That is the Missouri River contract, as we call it.

The advertisement was put in evidence, as follows:

"*Proposals for transportation.*

"Sealed proposals will be received at the office of the Chief Quartermaster, Military Division of the Missouri, Chicago, Illinois, until 12 m., on Tuesday, February 1, 1870, for the transportation of Government troops, military, Government, and Indian supplies between the following points, as indicated during the time from March 20, 1870, to October 31, 1870, viz:

"From St. Louis, Missouri, to Sioux City, Yankton agency; Fort Randall, Whetstone Creek, Lower Brules and Crow Creek agencies; Fort Sully, Big Cheyenne, and Grand River agencies; Forts Rice, Stevenson, Buford, Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Wyandott, Kansas, to Sioux City, Yankton agency; Fort Randall, Whetstone Creek, Lower Brules and Crow Creek agencies; Fort Sully, Big Cheyenne, and Grand River agencies; Forts Rice, Stevenson, Buford, Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Fort Leavenworth, Kansas, to Sioux City, Yankton agency; Fort Randall, Whetstone Creek, Lower Brules, and Crow Creek agencies; Fort Sully, Big Cheyenne, and Grand River agencies; Forts Rice, Stevenson, Buford, Camp Cook, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Omaha, Nebraska, to Sioux City, Yankton agency; Fort Randall, Whetstone Creek, Lower Brules, and Crow Creek agencies; Fort Sully, Big Cheyenne, and Grand River agencies; Forts Rice, Stevenson, Buford, Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Sioux City, Iowa, to Yankton agency; Fort Randall, Whetstone Creek, Lower

Brules, and Crow Creek agencies; Fort Sully, Big Cheyenne, and Grand River agencies; Forts Rice, Stevenson, Buford, Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Yankton agency to Fort Randall, Whetstone Creek, Lower Brules, and Crow Creek agencies; Fort Sully, Big Cheyenne, and Grand River agencies; Forts Rice, Stevenson, Buford, Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Fort Randall to Whetstone Creek, Lower Brules and Crow Creek agencies; Fort Sully, Big Cheyenne, and Grand River agencies; Forts Rice, Stevenson, Buford, Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Whetstone Creek agency to Lower Brules and Crow Creek agencies; Fort Sully, Big Cheyenne, and Grand River agencies; Forts Rice, Stevenson, Buford, Camp Cooke, or any post that may be established at the mouth of the Muscleshell River, and Fort Benton.

"From Lower Brules agency to Crow Creek agency; Fort Sully, Big Cheyenne, and Grand River agencies; Forts Rice, Stevenson, Buford, Camp Cooke, or any other post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Crow Creek agency to Fort Sully, Big Cheyenne, and Grand River agencies; Forts Rice, Stevenson, Buford, Camp Cooke, or any other post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Fort Sully to Big Cheyenne and Grand River agencies; Forts Rice, Stevenson, Buford, Camp Cooke, or any other post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Big Cheyenne agency to Grand River agency; Forts Rice, Stevenson, Buford, Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Grand River agency to Forts Rice, Stevenson, Buford, Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Fort Rice to Forts Stevenson, Buford, Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Fort Stevenson to Fort Buford, Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Fort Buford to Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"From Camp Cooke, or any post that may be established at the mouth of the Muscleshell River and Fort Benton.

"Proposals are also invited for the transportation of troops and supplies, during the season, from March 20, 1870, to October 31, 1870, from Chicago, Illinois, via Sioux City, Iowa, on through bills of lading, to all the points above Sioux City, that are above specified.

"Bidders will state the rate, separately for each month, from March 20 to October 31, 1870, inclusive, the date of starting, to determine the rate to be paid, at which they will perform the service from each of the starting points to the several points of destination above named, as follows:

"1st. The rate at which they will transport each officer and soldier (cabin passage to be provided for officers, and for soldiers necessary facilities for cooking their rations, which will be supplied by the Government.)

"2d. The rate per 100 pounds at which they will transport supplies.

"3d. The rate at which they will transport horses, mules, cattle, ambulances, carts, wagons, &c., (troughs for feeding the animals to be provided by steamboat.)

"A just preference will be given to parties who own and control boats. Boats will be expected to always give the Government freight the preference, and in no case will be allowed to carry private to the exclusion of Government freight.

"The contractor will be required to transport stores by land in the event of failure by water; and all stores received by the contractor for transportation must be delivered at their destination within the year 1870.

"Bidders will please give the rate at which they will furnish transportation down stream—though for that exclusive purpose no boat will be required to go up stream unless to bring down at least 160 tons of Government freight. The contractor for transportation from Chicago will not be required to furnish any down-stream transportation.

"In case the contracting party fails to carry freight as required, the Government reserves the right to furnish transportation at the expense of the contractor; and nothing herein contained shall be so construed as to prevent the Government from transporting its supplies on any of its own boats.

"Bidders are informed that no boat loaded with Government stores will be allowed to go above Sioux City, Iowa, drawing over three and one-half feet of water. As no boats will be required to go to points above Sioux City with less than one hundred tons,

bidders will state the rate at which they will transport detachments of troops of 100 or more, without freight.

"Bidders should give their names in full, as well as their places of residence, and each proposal must be accompanied with a bond in the sum of $10,000, signed by two or more responsible persons, guaranteeing that, in case the contract is awarded to the person proposing, it will be accepted and entered into, and good and sufficient security furnished by said party, in accordance with the terms of this advertisement.

"The contractor will be required to give bonds in the sum of ($100,000) one hundred thousand dollars.

"The party to whom the award is made must be prepared to execute the contract at once, and to give the required bond for its faithful performance.

"The Government reserves the right to reject any or all bids that may be offered.

"Copy of blank form of contract both for transportation from St. Louis, Mo., and Chicago, Ill., to be entered into in the event of award, and blank forms of proposals can be had by application to this office, to the office of the chief quartermaster Department of the Missouri, St. Louis, Mo.; chief quartermaster Department of the Platte, Omaha, Neb.; to Brevet Lieutenant Colonel James M. Moore, quartermaster Fort Leavenworth, Kan.; and to Captain James Gilliss, assistant quartermaster, Sioux City, Iowa.

"Proposals for transportation from St. Louis, &c., should be indorsed 'Proposals for Army transportation on the Missouri River, from St. Louis, Mo., &c.,' and those for transportation from Chicago, 'Proposals for Army transportation from Chicago, Ill., to points on the Missouri River,' and addressed to the undersigned.

"By order of the Quartermaster General.

"D. H. RUCKER,

"*Asst. Q. M. Gen'l U. S. Army, and Chief Q. M. Military Division of the Missouri.*

"ja.5;d&std."

Q. Did that include the transportation of Indian goods?—A. I understand that it did. It states that it is for the "transportation of Government troops, military, Government, and Indian supplies, between the following points."

Q. Have you an estimate of the amount of goods shipped by your Department under that contract?—A. I have a statement made from the monthly reports of freight transported up the Missouri River, under that contract, in 1870, but it is not quite perfect, because we find that the reports of Colonel Holabird for September and October have not been received at the Department.

Q. What was the total amount of freight transported under the contract during the year 1870?—A. Nine million five hundred and thirty-six thousand four hundred and eighty-eight pounds; but there is no report for November.

Q. What was the amount that your contract allowed to be transported?—A. The contract was for 20,000,000 pounds.

Q. Then that would leave a surplus of 10,464,000 pounds, which might have been availed of by the Indian Office under that contract.—A. If the Indian Office had called upon the Quartermaster's Department to transport its goods they would have been transported.

Q. At the contract prices?—A. Yes; unless we found that we had exceeded our quantity. That is so important a question that I cannot answer positively without knowing precisely what the contractor would claim that he had transported. At the end of the month the officer sends to us a consolidated report of stores and goods transported, in which he says that he has delivered for transportation so many million pounds, and if the contractor ever raises the question that he has transported more than he agreed to do we do not depend entirely upon these reports, but we go into an examination of the matter. I find that the quantity returned for September is only 26,788 pounds, but I presume that when we get all the returns in the amount will be over 600,000 pounds. The quantity for October is 605,284 pounds.

Q. Do you think there would have been any doubt, if the Indian Office had asked transportation for 3,300,000 pounds up the Missouri River under that contract that it could have had it?—A. I think there is no doubt of it, but I cannot say positively unless I am certain of these figures. Our contract was made to cover the Indian goods, at the request of the Interior Department.

Q. How long would it take you to get your figures accurate, by telegraph or otherwise?—A. I have already telegraphed for the report of Colonel Holabird. Whenever I get it I will send it to the committee, and if I find any other correction of these figures I will send it.

By Mr. BECK:

Q. Your official reports show that you could have transported as much as 10,400,000 pounds under this contract over what you did transport?—A. I think so. If the Indian Department had called upon the Quartermaster's Department to transport its goods, it would have been done whether under this contract, or under a supplementary contract,

or by an extension of the contract. In advertising for proposals, we fix a very low figure for the lowest amount and a very high one for the highest.

By Mr. WELSH:

Q. If the Indian goods had been shipped in August or September, then your October returns would not have counted at all?—A. No, sir.

By Mr. CHIPMAN:

Q. I suppose you can state with sufficient certainty that there was a margin to cover Indian goods?—A. I judge that there was, but I will not say positively that there was without seeing the figures; but I can say positively that we would have transported Indian goods, either under this contract or under some supplementary contract.

By Mr. SARGENT:

Q. Would you have had any difficulty in getting as fair rates under a supplementary contract as under this contract?—A. I cannot say as to that. The contract is awarded always to the lowest bidder who will give satisfactory security to make it likely that he will fulfill his contract.

Q. Is that the best way to get a low contract for transportation?—A. Unquestionably it is.

Q. Is it the way always pursued by your office?—A. Yes, in all large contracts. We never pretend to make a large contract without advertising.

Q. In advertising do you find much competition in that region for contracts?—A. I have brought an abstract of the bids received under this advertisement. I find here the names of eight bidders, as follows: H. E. Cutting, Hiram K. Hazlett, W. J. Kountz, Durfey & Peck, C. M. Seaman, Joel Lawrence, Barton Able, and Durfey & Peck. The successful bidder was Hiram K. Hazlett.

Q. Do you know whether Mr. Hazlett had any connection with the Northwestern Transportation Company?—A. I do not know anything about Mr. Hazlett. We let our contract to the lowest bidder, if his security is good. We do not inquire into his general character or antecedents; we depend more upon his security than upon himself.

By Mr. CHIPMAN:

Q. You say that if you had been called upon to transport these Indian goods you would have done it, even if you had been required to supplement the contract by another ne?—A. Yes, sir.

Q. That is simply in obedience to the order of your superior, the Secretary of War?—A. Yes.

Q. You do not know whether at the time the goods were actually shipped they could have been shipped under this contract?—A. I do not know at what time the goods were shipped. I am a stranger to all this investigation.

Q. That contract expires on October 31?—A. I think so.

Q. In speaking of the contract and its interpretation you simply speak from your own opinion of what the contract embraces; you do not pretend to give a judicial construction of the contract in regard to the rights of the Department and to the rights of the contractor?—A. I give my opinion, derived from having read the contract and from some experience in the business. I should like to say that of course the Quartermaster's Department did not undertake that transaction as a voluntary business; whatever we do for the Indian Department is done by order of the Secretary of War, and, as I understand in this case, at the request of the Interior Department and of the Indian Bureau.

By Mr. WELSH:

Q. Do you know whether last year the Indian goods were not sent up the river through the Quartermaster's Department?—A. I do not know whether they were or not. I know that we provided for their transportation.

By Mr. LAWRENCE:

Q. Did the Commissioner of Indian Affairs know that he could avail himself of the benefits of your contract for carrying Indian goods?—A. The Commissioner of Indian Affairs, as I understood, wrote a letter to the Secretary of the Interior Department, which was sent to the Secretary of War, requesting us to provide transportation.

Witness presented the following statement of shipments:

Statement of shipments made on the Missouri River during the year 1870 *of pound freight.*

1870.	Pounds.
March	740,905
April	2,589,447
May	2,278,531
June	1,963,065
July	73,363

1870.	Pounds.
August	1,007,689
September	*26,788
October	605,284
December	251,416
	9,536,488

Colonel Holabird has rendered no reports of transportation for September and October, 1870.

The amount of freight to be transported is limited to twenty million pounds.

Respectfully submitted,

M. I. LUDINGTON,
Quartermaster United States Army.

QUARTERMASTER GENERAL'S OFFICE, *January* 27, 1871.

WASHINGTON, D. C., *January* 27, 1871.

JAMES A. SMITH sworn and examined.

By Mr. WELSH:

Question. Are you owner of any boats on the Missouri River?—Answer. I am part owner of one boat at present, the Miner, Captain Hawley.

Q. Do you know whether that boat carried any Government or Indian freight up the river at any time this season?—A. I understand that it did.

Q. Do you know the rates of transportation?—A. There have been various rates paid for taking it up, ranging, I think, from 50 cents up to $1 50. It was taken up from Sioux City; I cannot tell you to what points—to some of the reservations; perhaps to all of them. The boat has brought up, I believe, a number of cargoes of Indian goods.

Q. Do you know for whom she carried those goods?—A. For the Northwestern Transportation Company, I understand.

Q. Do you know whether that company's boats took the Indian freight up this season?—A. I do not know it of my own personal observation.

Q. Have you any way of ascertaining the rates of freight?—A. I have seen memoranda of the prices that have been paid: $1 50 was the highest, and, I think, 50 cents was the lowest.

WASHINGTON, D. C., *January* 31, 1871.

JAMES G. BLUNT sworn by affirmation and examined.

By Mr. BECK:

Q. State your age, residence, and occupation?—A. I am about forty-four years of age, I reside in Leavenworth, Kansas. As to my occupation, it is pretty hard to tell. I am engaged in so many things. You may put me down as a farmer perhaps with as much propriety as anything else. I am also engaged as an attorney in prosecuting claims for various parties.

Q. State as fully as you can, without being asked specific questions, all your connections with the payment made to the Quapaws at the time that Mr. Williamson acted as paymaster?—A. In the winter of 1866–'67 a delegation of these three little tribes—the Quapaws, the Senecas, and the mixed Senecas and Shawnees—came to me in Washington, and requested my services to secure an indemnity for their losses in the war, stating that they were fully authorized by a council of their people to employ an attorney and to execute a proper power of attorney, and to make such contracts as they might deem advisable in the matter. I at first declined, on the ground that I thought the prospect of securing payment was so improbable that it would not justify me in spending time and money for a contingent fee, as they proposed to give me. They offered me one-third of all that I might collect, I to take all the risk and pay all the expenses. When I declined to accept the proposition, they said that if that fee was not enough they would give me one-half. I replied to them that if I succeeded one-third would compensate me liberally, and that if I did not succeed the offer of one-third was just as good as the offer of one-half or of two-thirds. I did finally accept the proposition and with very little hopes of success, and they had very little hopes. It was when Mr. Bogy was Commissioner of Indian Affairs. I assisted him in making the treaty, and I got a provision in the treaty providing for a commission to investigate and prove up claims for those losses, and appropriating in the treaty $90,000 for the payment. If the claims proved up should amount to any thing more than that they were to be paid out of that $90,000 *pro rata*. The treaty was not ratified at that session, and I came back the next winter and was here all that

* The above are from official reports received to date. It is probable that shipments of September were in fact as great as in October, but in the absence of actual official returns no certainty is obtainable.—M. C. MEIGS, *Quartermaster General.*

winter. No action was had on the treaty until after the impeachment trial in 1868, when it was taken up, and was referred to Mr. Morrill of Maine, as a sub-committee. I consulted Mr. Morrill in regard to the matter, laid all the facts before him in regard to the manner in which those Indians had to abandon their homes, and in regard to their subsequent conduct and loyalty during the war, all of which I was familiar with because I had to take care of them, they being within my command, and a good many of their young men having enlisted in the army in regiments under my command. Mr. Morrill assured me that that provision in the treaty should be retained, and he told me that I could write to the chiefs and headmen of the tribes assuring them that the treaty would be ratified, and that that provision would be retained, and that the ratification of the treaty was only a question of time. I did so. I supposed then that I had a sure thing on saving the provision. I wrote to those parties, as suggested by Mr. Morrill, to keep them quiet, as they were continually writing to me and manifesting a gread deal of anxiety. About four days before the adjournment of Congress, I discovered, by the merest accident, that the Senate Committee on Indian Affairs had amended, the treaty of several matters, among which was to strike out this entire article providing for the settlement and payment of those Quapaw and Seneca claims. I immediately came up to the Capitol, consulted different members of the committee, got them to reconsider their action, and finally got in a provision which ultimately resulted in the payment of those claims, but which was different, however, from the original provision in the treaty, as it provided only for a commission to investigate and approve of those claims and to report to Congress, leaving the whole matter optional with Congress whether it would make provision for the payment. The claims were finally approved, and Congress made an appropriation for their payment, and they were paid by Mr. Williamson. The money was paid to the Indians. The Indians receipted for it, and paid me as they had agreed to.

Q. What was the amount of the payment?—A. The amount of the payment was $90,000.

Q. Out of which you received how much?—A. Out of which I received just one-third, $30,000.

Q. Was that payment to you made at the same time and in the same building that the payment was made to the Indians?—A. It was.

Q. Was it arranged beforehand that it should be so done?—A. No, sir.

Q, How did you come to get admission into that building to make that settlement at the same time that the paymaster was paying the Indians?—A. There was no objection made that I know of. I was in the habit of going wherever a free man has the right to go and where there is no interdiction or authority for keeping him out. It would have been the same if I had gone into the woods half a mile off. I am sure that no Indian would have brought away a dollar of his money until he had paid me what he had agreed to.

Q. Had you made an agreement with each of the Indians?—A. No, sir; the agreement was originally made with the delegation that came here for that purpose. They were fully authorized by their people to make an arrangement, and upon their return from Washington, after they had executed a power of attorney to me and the contract, they called a council together, and ratified, as I was told by the chiefs, the agreement which they had made with me about a year subsequent to that time. Each Indian executed a separate contract.

Q. Who got up those contracts for you?—A. Those contracts were got up by Mr. Snow.

Q. Who is Mr. Snow?—A. A man who had formerly been their agent. When the commission was appointed in the winter of 1868–'69, and went down there to make their investigations, the Indians expected that I would be there, as I had promised them, and as they were very anxious that I should be, to get up their case and to help them through to get their papers in shape, and to aid them in making up their claims. I had other business on hand, and was so situated that I could not go, and I employed Mr. Snow, who had at one time been their agent, and who was familiar with them and with all their circumstances, to go there in my stead, and to do what they expected myself to do. At that time I sent to him a blank form of agreement, which was in substance the same agreement as had been executed by the delegation, in order that the matter might be presented to each Indian and fully explained to him, so as to know whether there was any misunderstanding between the individual Indian claimants and the delegation in respect to the matter, to be sure that they all understood what had been done for them by the delegation, and that it should be certified by them, so that there should be no misunderstanding in the end.

Q. And those contracts were brought back to you signed by all the Indians?—A. Yes, sir; and witnessed by the interpreters.

By Mr. LAWRENCE:

Q. Did the commission go out there to investigate these claims?—A. Yes, the commission was out there some two or three months.

Q. Under the treaty?—A. Yes, under the treaty.

Q. What was the date of the treaty?—A. The treaty was ratified in 1868, just before the close of the session, after the impeachment.

Q. And this contract was made after the making of the treaty?—A. Yes, in 1869, after the making of the treaty.

Q. Then there was no act of Congress to allow the claims at that time?—A. No, sir; there was only an act appointing a commission, which commission was to report to Congress.

Q. There was no liability of Congress incurred to pay the claim; it was still an unliquidated claim?—A. The treaty only provided for an investigation.

By Mr. BECK:

Q. When did that commission report?—A. That commission made its report to the Indian Department, I think, two years ago this winter.

Q. The report of that commission was made after your contract was signed by all the Indians?—A. Yes, sir. The report was transmitted by the Secretary of the Interior to both houses of Congress without any recommendation.

Q. From whom did you get the list of names of all the Indians who signed that paper?—A. When the delegation came here in 1866-'67, they had a list of all the Indians, with a schedule of their losses, which they had got some parties down there to get up for them, and which was the basis of the treaty. It was on it that we fixed upon this $90,000 as being, as we thought, sufficient to cover the amount.

Q. When was the payment made by Mr. Williamson?—A. Last October.

Q. Where did you meet with him and the gentlemen who were with him to make the payment?—A. I joined them at Leavenworth.

Q. How far was that from the point where the payment was made?—A. About 175 miles.

Q. Did you go from Leavenworth with them?—A. Yes, sir.

Q. Did you have any interview with the Indians, or make any speech to them prior to the payment?—A. No, sir; but I made a speech to some other parties who were there in the presence of the Indians.

Q. Who were they?—A. Mr. Lang, Mr. Hoag, the southern superintendent, Dr. Nicholson, and Mr. Earl.

Q. Did Mr. Williamson make any objection to your taking part in this payment and going into the house and receiving it, at any time?—A. He objected two or three times, and was a little out of humor at the delay which occurred in their making a settlement. He said he wished that that matter could be deferred and arranged afterward.

Q. Who was the Indian agent of the Quapaws at that time?—A. A special agent of the name of George Mitchell. These Indians used to be included with the Osages.

Q. Was Mitchell the attesting witness to your contract with those individual Indians?—A. A portion of those contracts are signed by Mr. Mitchell; I do not know whether they all are or not.

Q. Was he Indian agent at that time?—A. Yes; he was sub-agent.

Q. Were you aware, at the time those contracts were made, that there was any legislation by Congress prohibiting contracts of that character being made with the Indians?—A. No, sir; I was not. On the contrary, in 1868 there was a joint resolution passed by Congress, which recognized me as the attorney of other tribes of Indians in similar claims, and ratified a contract and compromise entered into by me and the representatives of the Choctaw and Chickasaw Nations, naming me as the attorney. That was in 1868. That is the only legislation I know of on the subject.

Q. Did it name you as acting under power of attorney?—A. It named me as the attorney of the Choctaw and Chickasaw claimants, and ratified a contract made with me on authority of the nation, and directed the Secretary of the Interior to carry it out.

Q. You were not aware that there was any act of Congress prohibiting an executory contract being made with the Indians?—A. I never heard of any. I always understood that a contract made with Indians was void; that is, that it could not be enforced by law; that whatever you had done for Indians in the expenditure of money or time in prosecuting claims, you had to rely upon their honor and good faith to carry out the contract.

Q. At the time you went to collect this money, was the money put in the hands of the Indians, and then your part taken out?—A. There were other parties there who had claims on the Indians for goods furnished to them on the order of Mr. Mitchell, a thing which, I believe, is very commonly done by Indian agents, and which is usually settled at the pay table when the annuities are paid. These parties were there, and a settlement of their claims was made. Mr. Mitchell held the book with the accounts of all the Indians, and superintended the settlement. The money was handed to them first, and they receipted for it; then Mr. Mitchell superintended the settlement of the claims for which they had given orders, and the money was handed over either to Mr. Earl or to Dr. Nicholson, one of whom was present all the time, sitting by me, for them

to make the division, and I took my money in every instance of one of those two gentlemen.

Q. All the money that was claimed to be due to the trader and due to you was paid before the Indian left the house?—A. Yes, sir.

Q. In your speech to those parties that morning, will you state to the committee what you said about the amount of money which you had already paid out of that $30,000, and about the amount you still had to pay, and for what purpose?—A. Yes; I think my recollection serves me pretty well on that point, because I expected that the matter would be stirred, and I took particular pains to recollect. I was aware for a week prior to making that payment, that an effort was going to be made by certain parties to prevent the Indians carrying out their contract with me. I had been apprised of it. The Indians told me that the matter had been first agitated by a Mr. Tuttle, a Quaker, who was teaching school there among them, who had gone among them and advised them not to pay anything, and that failing to make any impression upon them, he had sent for reënforcements, and had got Mr. Hoag, Mr. Lang, and those other two gentlemen of whom I have spoken, to assist him. I was at the Quapaw agency a day before Mr. Williamson got there on his return from St. Louis with the funds, and two or three days prior to that, I had sent word to the chiefs and head-men of the tribes to have their Indians there on a certain day, that Mr. Williamson would be back and ready to pay them. Mr. Williamson failed to get back on the day fixed. Hence I went out to the agency to see them and to explain the reasons of the delay, and to keep them quiet and patient until he returned. Within a few minutes of my arrival there, almost simultaneously, came Mr. Hoag, Mr. Lang, Dr. Nicholson, and Mr. Earl. I had not at that time spoken to an Indian, although they were all around me there, and although some of them with whom I had personal acquaintance had come to shake hands with me. I had not spoken a word to them in reference to the payment. We all took dinner together at Mr. Mitchell's, and spent an hour or two in ordinary conversation. When I was about ready to go back to Seneca, to the hotel where I was stopping, about 8 miles from there, I said to those gentlemen that I was about leaving there for the time being, and that I should not return until Mr. Williamson got back from St. Louis with the funds, and that I wanted to make a little explanation to them in reference to my connection with the matter, and desired to do it in the presence of the Indians, so that if I misstated any of the facts, the Indians might correct me or know at least what I had stated. We were all of us sitting out under the shade of a big tree on the grass plat. I requested Mr. Mitchell to call the Indians inside the yard, so that they might be within hearing distance. He did so. When they were present, I, addressing myself to Mr. Hoag, Mr. Lang, and the other two gentlemen, told them that I was aware of the object with which they had come there; that I had been apprised of the fact that they were coming there to try to induce the Indians to violate the contract which they had entered into with me in regard to the payment for the services rendered in prosecuting their claims; and that, while I did not recognize their authority to interfere, or their right to interfere in what I considered a private business between me and individuals who were just as capable of transacting business as they were, yet I wanted that they should know all the facts in the case, and then they could do as they chose in the matter. I said that so far as the relations between the Indians themselves and me were concerned I had not the least apprehensions that they would affect me with the Indians. I then stated to them what I have stated here to the committee in regard to the manner in which I became identified with those claims and the prosecution of them; and I said to them, in conclusion, that I did not expect to see the Indians again until the payment commenced, that the money would be paid to them, and that it would then remain for them to pay me or not as they chose, but that I had no apprehension that they would not do what they had agreed to. I said that my dealings with the Indians heretofore assured me that those Indians would not act in bad faith; and I said furthermore, "I expect that they will remain here until payment, where you can be in communication with them all the time, and where you will have every opportunity to question them on every point that you see proper," (which I understood they did that night in council.)

Q. The point to which I directed your attention is this: how much money did you say you had paid out of the amount coming to you, and how much more did you say you had to pay?—A. There was a kind of general conversation between me and Mr. Hoag and Mr. Lang and the other gentlemen in regard to the matter, Mr. Lang and Mr. Hoag particularly claiming that it was a large fee. Well, I said, it would have been a large fee if it had been a fee guaranteed without any contingency attached to it; but it was the offer which they had voluntarily made to me, and which I had accepted; and that I had already paid out a good deal of money in expenses, and had obligated myself to other parties who had aided me and assisted me in the matter, which obligation I expected to make good. I told them that I had expended, from the time I had been to work at Washington, for the better part of three years, somewhere in the neighborhood of $5,000; that that would not more than cover the amount of

money already paid out, and that I had obligated myself to other parties, whom I had employed to assist me, to the amount of $7,500, or one-fourth of the amount which they had contracted to pay me. Mr. Lang then said to me, "Yes, I suppose that you had to pay that amount to members of Congress and Senators to help to get the claim through, as I understand that no claim or appropriation of that kind can be obtained without resorting to such practices;" and then, turning to his company, he said, "That is one of the abuses that exist in Congress, and they have to be remedied there; we cannot help that here"--speaking of the matter as taking it for granted that that was the usual custom in obtaining appropriations.

Q. On that subject what did you say?—A. I said, no; that I had made no promise to any member of Congress, or to any one in an official station; that I had paid money to defray the expenses of others and of myself, and that I had placed myself under obligations to others whom I had employed as attorneys to assist me.

Q. Did Mr. Earl take notes of what you said at that time?—A. I do not know that any one took notes. Mr. Earl was there.

Q. Did you use this language, or language substantially similar to it—that you had paid out $6,000 already, and that you had $10,000 more to pay?—A. I may have made the statement that I had paid out $6,000, and that the amount which I would have to pay out would make more than $10,000, or more than $12,000.

Q. Did you use this expression, or anything substantially like it, that you had "bought the claim and fought the claim through Congress?"—A. No, sir; I did not.

Q. Nor anything approaching to it at all?—A. I may have said that I had "fought it through," which I think I did, and I made a pretty hard fight too. I know that Mr. Lang used that language, and tried to put it into my mouth.

A. Did you pay any money, directly or indirectly, to any member of Congress, or did you make any promise, directly or indirectly, to pay any money to any member of Congress?—A. I did not.

Q. And you did not say anything to that effect that day?—A. No, sir.

Q. And if any one said so, it would not be true?—A. It would not be true. On the contrary, when I said that I had expended quite a large amount of money, and had obligated myself to pay more, Mr. Lang assumed that I had paid it to members of Congress, and said, "Yes, I suppose you paid that to members of Congress and Senators," and then, turning round to his associates, he said: "I understand that that is the way these things have to be got through."

Q. Do I understand you to say that you denied it?—A. I denied it. When he had finished his remarks, I replied to him, "No, sir; the money that I have expended has been for legitimate expenses for the last three or four years of myself and others, and what I have promised is to be paid to others, who assisted me as attorneys."

Q. Were they Government agents in any form?—A. No, sir; not at all.

Q. Neither Indian agents nor connected with the Government in any shape?—A. They were not connected with the Government at all.

Q. Are you at liberty to state who they were?—A. Yes, sir. There is but one man to whom I paid any money, except what I paid for expenses. When I found that I could not go down in the winter of 1869, when this commission went down to make out these claims, and to get up the case, as I promised the Indians I would do, I wrote to Mr. Snow, who was living near Lawrence, and employed him to go down and fill my place, and agreed to pay him one-fourth, $7,500. He was not only to do that, but he was to assist me to the end of the prosecution of the claim, and was to do whatever was to be done.

Q. Where is Mr. Snow living now?—A. At Baldwin City, Kansas, near Lawrence. Mr. Snow went there and filled my place, and since then he has done everything that he could do in prosecuting the claim to final issue.

Q. What other Indians were interested besides the Quapaws?—A. The Quapaws and the Senecas, and the mixed Senecas and Shawnees. The $90,000 were paid to them all as a confederate band.

Q. You spoke of your connection with the Choctaws and Chickasaws?—A. Yes.

Q. How much was paid you for that service?—A. The Choctaws paid me forty per cent. and the Chickasaws fifty per cent.

Q. Of what sums?—A. The Chickasaws got $150,000, and $25,000 were taken out of that, and then I got 50 per cent. of the balance. Twenty-five thousand dollars were taken out of the $109,000 for the Choctaws, and I got 40 per cent. of the balance of that.

Q. Do you know how much of the remainder was taken out by others before the Indians got their portion?—A. The money was presented to the Indians, and they settled with me in the same way that the Quapaws did; they came to me directly. I was present at the payment, and when they got their money they came and paid me.

Q. Was there not a large number of claims taken away from the Indians there also?—A. No, sir; there were no claims taken out there. There were some parties on the ground at the payment, but they were not at the pay table. I was not present when the settlement was made with them. There were some few merchants who had sold them goods on trust, and they were there to collect the money.

Q. Who was the agent at that time who made the payment?—A. He was a special agent, named S. S. Smoot.

Q. Did you go there with Mr. Smoot?—A. Yes.

Q. And the payment was conducted very much in the same way as Mr. Williamson paid the Quapaws?—A. Yes, sir. That is the payment for which Congress passed a joint resolution directing the Secretary of the Interior to pay according to the terms of the contract entered into between me and the representatives of those two nations.

Q. Was that contract laid before Congress?—A. It was.

By Mr. SARGENT:

Q. Was the amount of the compensation that you were to receive stated in the contract?—A. No, it was a mere contract between me as representing the claimants, and the delegation representing the Choctaw and Chickasaw Nations, to make a compromise with me in the settlement of this matter after the commission had been appointed to go on down to investigate these claims. Mr. Browning and Mr. Bogy both opposed it and fought it, and advised the nation to defeat it if they could, claiming that those Indians were rebels to the confederacy and should not receive any pay.

By Mr. BECK:

Q. For what other Indians have you been acting as agent?—A. I am acting now as attorney for the Eastern Cherokees.

Q. In their claim before Congress?—A. No, sir; it is a question of controversy between the Eastern Cherokees and the Western Cherokees, the Eastern Cherokees claiming that they have the right to participate in the personal property and funds arising from the sale of portions of their country, which right the Cherokee Nation denies.

Q. What other Indians do you represent?—A. I am attorney also for the Miami tribe of Indians in Kansas for the settlement of their business.

Q. Have you been agent or attorney for any other tribes who received payment from the Government for the last two or three years?—A. No, sir; these are the only two cases. The Choctaws and Chickasaws were one payment and the Quapaws another.

Q. Do you say that Congress was advised at the time it passed the joint resolution for your benefit of the amount that you were to receive?—A. I do not know that it was advised of it. I know that the matter was stated on the floor of the House and was discussed for two morning hours. The Globe will show the debate that took place on that joint resolution, and will show that it was stated on the floor of the House that I was attorney for these people and had a contract by which I was to get 40 per cent.

Q. Was that stated by your friends and by your authority?—A. No, sir; it was stated by persons who opposed the resolution.

Q. Did your friends deny it?—A. No, sir; they did not.

Q. Did Congress know the facts at the time it acted on this thing?—A. I do not know whether Congress knew them or not. It was not my business to tell them. Congress could have known it if inquiry had been made of me. I had nothing at all to keep back or to conceal.

By Mr. LAWRENCE:

Q. Do you know of any improper agency to influence the legislation of Congress on this matter at all?—A. None at all; none whatever.

Q. By the use of money or otherwise?—A. No, sir. It was a straightforward business transaction, and was prosecuted on its merits as much so as anything that I had ever anything to do with.

Q. What was the claim for?—A. In 1862, before our lines were extended beyond the Quapaw country, the rebels had come up there and occupied Southwestern Missouri and made a raid on these people and tried to force them into the confederate service. They had commenced abusing them and stealing their property, and they, for protection, got up and stampeded, abandoning their property and coming within our lines. The rebels destroyed their buildings and property. This provision to compensate them was put in as an amendment to the appropriation bill in the Senate. It came from the Committee on Indian Affairs in the Senate.

Q. At whose instance was it put in in the Senate; who moved the amendment?—A. I think the chairman of the Committee on Indian Affairs moved the amendment. It was agreed to in committee.

By Mr. PECK:

Q. Was that amendment urged before the committee by you?—A. Yes, sir. The committee sent it back to the Commissioner of Indian Affairs, as it had been transmitted from the Secretary of the Interior without any recommendation in the matter, and the committee had no time to go over all the evidence in the case for an opinion and a recommendation. It was in the office of the Commissioner of Indian Affairs for

three or four weeks, and was returned with the recommendation that the claim be cut down 20 per cent. I never could see any reason for that recommendation, or any argument for it. If the claim was allowed at all, it should have been allowed for the full amount lost. Then I went before the committee, and I went to different members of the committee and argued the case with them, and finally I got them to compromise and agree upon the original amount put in the treaty, $90,000, which was about $12,000 more than the Indians would have got if the recommendation of Colonel Parker had been followed.

Q. Did you appear before the Committee on Appropriations of the House?—A. No; it was not before that committee. After it had been referred back to the Commissioner of Indian Affairs, and before it was returned again, the Appropriation bill had passed the House and was in the Senate.

Q. How often did you appear before the Committee on Appropriations in the Senate?—A. I think I was only there once, but I spoke to different members of the committee several times, whenever I had an opportunity to meet them.

By Mr. SARGENT:

Q. How do you know that the matter was not considered by the Appropriation Committee in the House?—A. The provision was put in as an amendment in the Senate, and was considered by a committee of conference.

Q. Did you see any member of the Committee on Appropriations of the House of Representatives in reference to it?—A. No, sir.

Q. Did you see any member of the committee of conference in regard to it?—A. I did not see any myself, but I requested Mr. Clark, the member from Kansas, to see the Appropriation Committee and see if they would consider it. That was after it had passed the Senate. I think I saw Mr. Clark one day and asked him to speak to Mr. Sargent about it. I saw him the next day, and he told me he had spoken to Mr. Sargent about it, and that the appropriation bill had been considered, and that there would be no chance to bring the matter up again in the Appropriation Committee, as they had got through with the matter. There is one matter which I wish to state here because it has been charged or intimated that there was some collusion between me and Mr. Williamson. I desired this Quapaw payment to be made by Mr. Hoag. Before I left Washington, after the adjournment of Congress, in the latter part of July, I went to Secretary Cox on two different occasions, stating the facts in regard to this claim; that I represented these people; that they looked to me for the money, and to nobody else, because they never did rely upon anybody else; that the appropriations had been made; that the Indians were very clamorous for their money, and were continually writing to me to know the reason why the payment was not hurried up, and saying that I would like to have the payment made as soon as possible, and desired that it should be made by Mr. Hoag. I told Secretary Cox that I had some interest in it, but that I did not ask any protection from the Government, or that my interest should be recognized, but that I wanted the money paid into the hands of the Indians, and that I did not want the Government to go out of its way to try to induce the Indians not to carry out their obligations to me, but that I was willing to rely upon their integrity and honesty. The last time that I made this application, Mr. Clark, of Kansas, was present in the room when I was talking to Secretary Cox about it. The Secretary said that the money should be sent out for payment as soon as it was got on the books of the Treasury Department, so that the Department could make requisition for it. At the same time he said that Mr. Hoag's duties were such that he might be pressed for time and might not be able to make the payment very soon, and that, in case he was not, he, Mr. Cox, would appoint a special agent to make the payment; but he assured me that the payment should be made by the 15th of August.

By Mr. BECK:

Q. Were you on the bond of Mr. Williamson?—A. I was.

Q. How did you come to be on his bond?—A. Because Mr. Williamson requested me. At the time I went on his bond I was not aware that he was going to make the Quapaw payment. I expected at that time that it would be made by Mr. Hoag. He was to make the Creek payment of $90,000, in which I had no interest at all, and he asked me to go on his bond. Afterwards the Secretary determined that Mr. Williamson should make all these payments—the payment to the Quapaws and Senecas and the payment to the Peorias and the Pottawatomies.

By Mr. SARGENT:

Q. Did your having an interest in any payment induce you to go on Mr. Williamson's bond?—A. Not at all, sir; I went on his bond as I have gone on many other people's bond, without any interest in the matter.

By Mr. BECK:

Q. How long had you known him?—A. Four or five years.

Q. What relationship had existed betwen him and you, business or otherwise, that you should go on his bond?—A. No more than existed between me and any other man that I was acquainted with. I thought him a man of integrity, and as he wanted me to go on his bond I did so.

By Mr. SARGENT:

Q. Did he give you any special reason for going on his bond?—A. No; I had been very intimately acquainted with Mr. Williamson for four or five years. I had had a good deal of business with the department and became acquainted with him in the transaction of my business. I have gone on the bonds of men with whom I was not half as well acquainted as I was with Mr. Williamson.

By Mr. BECK:

Q. There are some letters here from you relative to the transactions of the Choctaws and Chickasaws?—A. Yes, sir; I stated the facts in those letters.

Q. Have you any objection to their being made part of this record?—A. Not at all, sir; I have no objection to anything which I do being made public. I do nothing which I am not willing that the world should know, in connection with the Indians or anything else. There is another matter which I wish to state in reference to Mr. Mitchell. I never saw Mr. Mitchell in my life until I met him at the time of that payment down there.

By Mr. SARGENT:

Q. Who induced Mr. Mitchell to witness these powers of attorney?—A. I do not know. I had nothing at all to do with it. Mr. Snow may have requested him to do it. Mr. Snow had a good many of them got up when he was there. Most of them were got up when the claimants came in to make their claims. Mr. Mitchell was careful that, in every instance, the interpreter should be present, and, when the Indian did not understand English, (as many of them do understand it well,) that the contract should be read and interpreted.

Q. How do you know that, if you were not present?—A. I know it from the statements made to me by the Indians themselves, the chiefs and others. Mr. Mitchell did it merely to protect the interests of the Indians, so that every Indian should know what he was signing.

Q. Was Mr. Snow the agent at the time he got up these contracts?—A. No, sir; he had not been the agent for two years. He had nothing to do, in any official capacity, with the Indians for two years. He formerly had been agent with those Indians.

WASHINGTON, *January* 31, 1871.

J. W. BOSLER sworn and examined.

By Mr. WELSH:

Question. Where do you reside?—Answer. Carlisle, Pa.

Q. Are you familiar with cattle contracts?—A. I should be.

Q. What do you consider a fair difference between selling cattle for immediate delivery on the Missouri River, and keeping them during nine months, during the winter months, and delivering them as needed, week by week or month by month?—A. There is a difference, but it would require some calculation to get at it.

Q. Would you, for one and one-quarter cents a pound, take that difference?—A. That is a hard question to answer; it would depend entirely upon the state of the country that the delivery was to be made in. There are some times when the difference would be three or four cents a pound, and at other times would not be anything.

Q. Did you not tell me, that for one and one-fourth cents a pound additional, you would not take the risk of delivering cattle week by week, keeping them for nine months. Did you not tell me that in my library in Philadelphia?—A. I will tell you emphatically that I did not; and I will also say by way of explanation that I did not consider myself at all responsible for anything I said to you on that occasion, from the fact that I discovered very shortly after I had been there, although invited, that you were acting as a detective; but I did not say that; and now I will explain to you what I did say. Mr. Welsh assumed that one and one-fourth cents a pound would pay the difference, and he asked me, after arguing on that premise of his own, "Do you not think it would?" My answer was that perhaps it would.

By Mr. SARGENT:

Q. At whose house did this conversation take place?—A. At Mr. Welsh's, in Philadelphia. My brother had been up the Missouri River and stated to me that he had met Mr. Welsh, and that Mr. Welsh wished to see me. Mr. John H. Charles, of Sioux City, wrote me a letter stating that Mr. Welsh desired to see me, and had requested him to say so. Reverend Mr. Hinman also sent me word that I should by all means go to see Mr. Welsh, as he wanted to talk to me upon Indian matters up the Missouri River.

When I heard that Mr. Welsh had returned I addressed him a letter setting forth these facts and stating that at any time and place he suggested I would be ready to meet him. I received a letter at Washington, forwarded from New York, stating that Mr. Welsh had received my letter and would be glad to meet me at some time, mentioning the time, and that I should telegraph him if I would come. Of course the time had expired, and I did not see Mr. Welsh. I went to my home in Carlisle, and was detained there for quite a while, my family being sick and my little boy having died; and after I had an opportunity to communicate with Mr. Welsh, I telegraphed to him that I would meet him the next day, if agreeable, or something to that effect; that I could be from home only one day; and his answer was, to meet him between such and such an hour; and I went there to meet him.

By Mr. WELSH:

Q. What interest have you in the contract of J. W. Morrow for beef?—A. I have got a half interest in the contract.

Q. Did Governor Carney, or any one else, offer $40,000 to have that bid withdrawn?—A. Not to my knowledge. Mr. Welsh in that same conversation assumed that Governor Carney had offered $40,000, and my answer was that I had so heard it reported. I have never seen Governor Carney, and was not here when the contract was let. It was mere outside conversation and talk that such and such an offer had been made.

By Mr. SARGENT:

Q. Whom did you hear say that such an offer had been made?—A. I heard Mr. Welsh say it for one, and I believe I heard it in Chicago. I think I heard Mr. McCormick, of Omaha, say it. It was just a floating conversation.

Q. Is Mr. McCormick a partner in this contract?—A. Yes. I think I heard him say so, but I am not sure. It was a mere unfounded rumor.

Q. If the statement was made to you by a partner in the contract, would you class it an unfounded rumor?—A. Yes, I would, for this reason, that at the time he made that statement, if he made it, he did not know that I was a partner. I will not say that it came from him, it is just an idea that I have.

Q. At what time did you get an interest in Morrow's contract?—A. I met Mr. Morrow in Chicago, and he told me that he was coming on here to bid on this contract, and he asked me if I would join him. I told him I had put in a bid for the contract myself. A general conversation took place, in which he said that if I would join him, and furnish him with some money in connection with some friends of his, he would like to have me do it. I told him that I had every confidence in his capacity to execute the contract. I said that if he would go up the country and attend to the contract, I would like to join him, but that I would not go up the country and spend the winter there, attending to the business operations of the contract, under any circumstances, or for any amount of money. He said that he would do it, he and some parties whom he had with him, and I told him I would join him. I wanted to know what bid he would put in.

Q. Did he tell you?—A. No, sir; he did not.

Q. Did you go into the contract without knowing his bid?—A. I did. He said, "I will bid at such a price as will enable me to carry it out and make some money." I said, "I know you are thoroughly posted on this business, and if you give your personal attention to it I will join you." He said, "there is no use in fixing upon a price; just let me fix that."

Q. Had you not a bid for the same contract?—A. I had a bid in for a week before. The time for letting the contract had been postponed for a few weeks.

Q. His bid was to come in competition with yours?—A. Yes; I told him just what my bid was. I agreed to take an interest in anything he did.

By Mr. WELSH:

Q. Was your agreement to take an interest made after the extension of the time of letting the contract?—A. Yes; I think it was.

Q. When you came to me at my library, state whether I did not tell you that I had heard that an offer of $30,000 had been made by Governor Carney to have this bid withdrawn, and you replied specifically that $40,000 had been offered?—A. My recollection is that you did not put it in that way, although, as I stated, I had made up my mind, when you sat down there and made your speech, and told me how much you thought of me, and of everything I had done, and of the appreciation you had of my character and business reputation, and how you had investigated me, and told me you were glad to know you had found everything in connection with me entirely proper and right, I made up my mind, I say, that you were acting the part of a detective, and that I would hear you talk, and say as little as possible myself.

Q. You have not answered the question yet.—A. I do not recollect what may have been the conversation in regard to that, but I do recollect that you assumed in your argument that Governor Carney had offered a certain amount to have the bid with-

drawn, whether $30,000 or $40,000 I do not know, and my answer to you was that I had so heard such a report.

Q. Do you recollect my telling you that although I had heard a good account of you in your contracts with the Government, yet that in this connection I believed you had got into very bad company, and that they had misled you?—A. I remember something of that, and I asked you what you meant by it.

Q. What did you pay for flour in Sioux City in September?—A. Three dollars a sack, containing a hundred pounds.

Q. To whom did you pay that price?—A. To John H. Charles.

Q. Have you the bills?—A. I have.

Q. Can you produce them now?—A. I have not them here.

Q. What number of sacks did you buy from him at three cents a pound?—A. Something over 20,000 sacks; I forget the exact amount.

Q. What did you pay for flour in Yankton at that time?—A. I bought that flour from Mr. Charles.

Q. Do you know what was paid for it by him?—A. I do not; I have not the least idea in the world.

Q. What did you pay for the flour that was bought under the contract of 17th of June, and where did you buy it?—A. I bought part of it at Sioux City, but I cannot answer definitely as to the price, for I bought it from a number of different parties. I bought some flour at Omaha, which I shipped up there, and I cannot tell you what I paid for it. I paid from $2 50 to $3 a hundred pounds. I did not buy a sack less than $2 50, including freight to Sioux City, but I cannot give the exact amount.

Q. What freight did you pay up the river at that time?—A. One dollar and ninety cents per hundred pounds.

Q. From where to where?—A. From Sioux City to all the reservations—an average of $1 90.

Q. Were you a party to the bargain for the transportation of flour, pork, and other goods, made by Mr. Woolworth?—A. I was not interested in any shape whatever in their contract.

Q. Were you the custodian of the money?—A. I collected Mr. Woolworth's bills. I was delivering flour to the Government under a contract with the Commissioner, and was to be paid for it on the receipted bills of lading of the Northwestern Transportation Company, that being the evidence to the Indian Office of the delivery of the flour; and I insisted of course upon their sending the bills just as fast as they could. Mr. Woolworth asked me if I would collect his bills, as he knew that if he sent them to Washington it would take from one to two months to collect them; but that if I would take them with my own, and give my personal attention, I could get it done in a few days. I told him that I would do so, and he said he would send his accounts right to me and for me to collect them. He suggested that I should collect the drafts and indorse them, and that he would draw upon me for the amount. I told him that I would not like to do that without some authority, and he gave me written authority to sign his name to drafts. I did so and collected all the accounts. He telegraphed to me what to do with the money. I placed part of it to his credit in New York and in Sioux City, and he drew upon me for part of it.

Q. Had you a power of attorney from him to indorse?—A. I had a letter from him stating that he gave me authority to sign his name as secretary of the Northwestern Transportation Company to all drafts or evidences of debts that might be paid.

Q. Then you wrote his name without saying that you did so as his attorney?—A. Yes; that is, I wrote his name by authority, signed his name to the draft and collected the money; the draft was made payable to his order.

By Mr. BECK:

Q. How many contracts had you with the Indian Department in 1870?—A. I had a contract to furnish this beef in question, the contract of the 17th of June, and I had the extension of that contract of the 10th of August.

Q. And you were a half-partner in the Morrow contract?—A. Yes.

Q. Had you any right or authority to purchase bacon in Chicago for the Indian Bureau?—A. Yes, I had a contract for bacon; that was obtained under an advertisement.

Q. Your contract of June was a private contract?—A. Yes.

Q. And your extension of August was a private contract?—A. Yes.

Q. And your contract for bacon was made under an advertisement?—A. Yes.

Q. Were you the lowest bidder for the bacon?—A. I so understood it, and my bid was accepted.

Q. How did you come to obtain the contract of 17th of June; had you ever known General Parker before that time?—A. I met Mr. Parker in 1867 or 1868, the time when he and General Sully were commissioners to go West to negotiate some matters with the Indians; General Sully introduced him to me at Omaha; I probably did not talk to him for five minutes on that occasion, and never saw him again till last April, when

I called in his office and introduced myself, and asked him if he required any flour or subsistence of any kind for the Indians up the Missouri River; he told me that he did not, that they had a contract under the Commissary Department which was being filled, and that that would last until the 30th of June; that they had no appropriations for continuing the subsistence of the Indians beyond that time, and that he had no knowledge exactly what arrangement they would come to after that time. I said that I had been living in that country a good while, and doing business there; that I was extensively engaged in produce, and that if he wanted anything I would like to furnish him; Mr. Parker spoke then of General Sully's name, and said that he knew I was a reliable contractor in that country, and that if he needed anything he would be very glad to call upon me; the whole conversation probably lasted five minutes; I did not even sit down.

Q. Where were you in June when you next saw him?—A. I stepped into his office four or five times between April and June, and asked him if he wanted anything in my line; he said no, that if he did he would let me know, or something to that effect; not very long before I made this contract I stepped into his office and he told me that he did want some supplies up the Missouri River, and asked me if I was prepared to deliver them; I talked with him for half an hour or three-quarters, on the subject; he told me the condition that he was in, that the contract with the Commissary Department expired on the 30th of June; that he had no funds to pay for subsistence unless Congress made an appropriation, and he wanted to know if I would take the contract and deliver subsistence by the 1st of July; I told him that it was impossible to deliver it by that time, but that I would agree to take it up as quickly as any other person could probably do it; he wanted to know how soon I could do it; I told him I did not know exactly; my impression is that he mentioned the 5th of July, and he remarked in that connection that the Indian supplies would run out, from the best information he had, on the first, and that he could probably get supplies from the Commissary Department to last him for five or ten days; I told him that if he would make the contract at once, I would agree to deliver supplies to the lower agencies by the 5th of July, but that it would be impossible to do so to the upper agencies; I told him I could supply them by the 15th; he asked me to reduce my proposition to writing, and he would consider it; I submitted the proposition in writing; he said whatever I do in this matter I have got to do at once, as the service is in great want of subsistence in that country; I stated to him that I wanted an answer upon the bid immediately; he told me he would have to consult the Secretary, and that he would take my proposition to the Secretary and let me know the next day; he also told me in connection with it, that he had no money applicable to the payment of those supplies beyond about $90,000, and that the payment of the balance would be contingent upon an appropriation by Congress; he said he thought the appropriation would be made, but upon that point he would not guarantee anything; that he wanted me to know that I was taking that risk; he said that there was a point in controversy between the Senate and the House, which he explained to me, and that Congress might adjourn without making the appropriation; there was some talk in regard to the bid, as to this being too high or that too high, and we had the usual conversation on the subject of bargain and sale.

Q. Was it finally agreed upon according to your first bid?—A. No; there were some little changes made. I do not know exactly what they were. He cut down some things which he thought too high.

Q. Was the contract drawn a day or two after that?—A. The contract was drawn a very short time after that. It was drawn with some changes from my first talk to him.

Q. Were the propositions that you made substantially accepted?—A. Yes, sir; they were substantially accepted. In the case of tobacco, there was a little change, and in some other articles, but the propositions were substantially accepted.

Q. Was that contract changed afterward, so as to allow you to deliver all your cattle at once, instead of at different times?—A. Yes; but the way it occurred was this; my original contract with General Parker was that the cattle should be all delivered on the 15th of July. I stated that I would probably get myself into trouble by contracting to do that, as I might not be able to get so many cattle ready by that time, and, to provide for that contingency, I would like him to put in my contract that I should deliver a certain amount on the 15th of July, and a certain amount on the 1st of August, and a certain amount on the 1st of September. He called a clerk and told him to fix the papers in that way; and I also said at the same time that if I could get the cattle so as to deliver them all at once, it would make a difference to me, and that I wanted him to receive them all at once, but that I did not wish to be bound in a written contract to do so, as the probabilities were that I could not. He assented that it should be so done.

Q. Were you not authorized, after the contract was entered into, to deliver them all at once?—A. Yes; after I went up there, I discovered that I could get the cattle. I made a contract with one party to deliver the entire lot of cattle at once.

Q. Whom did you make that contract with?—A. Bosler, Herman & Co.

Q. Who were Bosler, Herman & Co.?—A. Three brothers of mine and their partner. One of them is in Sioux City, in the cattle business exclusively. I made a contract with them to furnish me with enough cattle to fill my contract, at a certain price. I discovered, when I got up there, that I had cattle enough to do it in one delivery, and I telegraphed to the Commissioner, asking him to instruct his agents to receive the cattle at once, in accordance with the understanding.

Q. Did the Commissioner telegraph to the agents or to you?—A. I asked him to send the telegraphs to my care, and I would see that they were delivered. Sioux City was the end of the telegraph line, and I attended to sending them on, by a messenger, so that they should be delivered. Part of the cattle were up there at the time.

Q. What amount of pecuniary advantage was it to you to be allowed to deliver them all at once, instead of as provided in the contract?—A. I considered that as part of my contract.

Q. The contract is in writing, is it not?—A. Yes; my contract in June was in writing, but when that contract was made up, it was understood, at my suggestion, that I should make three deliveries of the cattle, as I did not know that I could get them all up in one herd.

Q. What advantage was it to you, pecuniarily, to have the change of which you have spoken made, to deliver them all at once instead of according to the terms of the contract?—A. I do not regard it as of any advantage to me. In the technical construction which you would put upon it, it would be the cost of herding the cattle from the 15th of July until the 1st of August, which would be something, in the way of expense, whereas, in the way of advantage, there would be an increase in weight; I should think that it would make very little difference. The increase of weight would be considerable, from the fact that the cattle, after being driven that distance, would be very tired, and would pick up considerably in that season of the year. My impression is that one would about offset the other.

Q. Then you state to the committee that you think you derived no advantage from that change?—I think I did, from the fact that I got the cattle off my hands, got pay for them, and got the interest of the money.

Q. You bought all the cattle from one firm?—A. Yes.

Q. At what price?—A. At four and a half cents a pound, and I to furnish an escort to the cattle drivers, and to be responsible for all damages from Indian raids. I was to pay four and a half cents a pound for the cattle delivered at the agency.

Q. What negotiations, if any, had you with the Commissioner relative to the extension of August 10?—A. None, except what I have stated. The Commissioner asked me if I would furnish an additional amount of cattle, and I told him I would. There was very little talk on the subject.

By Mr. CHIPMAN:

Q. Did Mr. Welsh make any remark to you with relation to his motive in making charges against General Parker, and if so, what did he say?—A. In speaking of this prosecution against General Parker, he said that he was glad to assure me that he had no unkind feelings against me. He did not intend that there should be any reflection against me; but in the course of the conversation he spoke of General Parker, and said that his connection with those parties in New York was not very creditable, and further that the general was the representative of a race only one generation from barbarism, and he did not think that he should be expected to be able to withstand the inducements of parties who were his superiors in matters of business. He also said that the difficulty between General Parker and himself had occurred some time previous, when they were receiving goods in New York.

Q. While Mr. Welsh was a member of the board?—A. Yes. There was something in connection with the receiving and inspection of the goods. He objected to their being inspected and received in Buckley, Welling & Co.'s house, and gave some reasons for it. One was that there were some flannels which were at a low price. He would not agree that those goods should be inspected there, and asked that they should be removed to another house. Mr. Buckley and Mr. Wheeler had objected, and had got the Commissioner to side with them, and he (Parker) came on to Washington, and saw the President, and the President also sustained them. He said that he then resigned his position on the commission, and that if the balance of the commissioners had followed his example, they would have had General Parker out of office at that time; that the matter would have been ended there, or something to that effect. I told him that I had nothing to do with their quarrel, and did not care what the termination of it was.

Q. Was there anything else?—A. He said something about the President's desire to serve General Parker, and what he thought of it; I do not remember the exact words; but he attributed it to the President's goodness of heart. He asked me, in the same connection, if I had ever seen General Parker drunk; and he said that in New York he had been "feasted and wined;" that "tables had been kept up there;" and that he was satisfied that General Parker did not have the moral courage to withstand tempta-

tion. He said that he had gone to Secretary Cox and told him the condition of affairs, and the manner in which they were treating Parker, and asked Secretary Cox if he thought he (Cox) could withstand inducements of that kind, and that Secretary Cox said he did not believe he could.

Q. As to the delivery of the cattle, was the delivery on the one day the result which General Parker originally desired to secure?—A. His original desire was to have them all delivered on the 15th of July.

Q. Then, as far as the delivery was concerned, the instructions which he gave, at your request, did not vary from his original instructions?—A. No, sir.

Q. Do you know whether or not, under this contract of June 17, General Parker had authority to permit these deliveries at times different from those named in the contract? Did you understand that he had the right to receive your cattle without having them delivered precisely at the dates named?—A. I understood that he had the right to demand the receiving of them whenever I was ready to deliver them, from the fact that that was the understanding. The written contract was merely for my protection.

Q. With reference to the Morrow contract, would you have taken the interest in it you did if you had known the bid which Mr. Morrow was going to put in?—A. No, sir; I would not.

Q. Why?—A. From the fact that it was entirely too low.

Q. Do you know now whether or not that contract was profitable?—A. I know that it is not profitable.

Q. What will be the probable loss on that contract?—A. The loss on that contract cannot possibly be less than from $75,000 to $100,000. The whole amount of the contract, when filled, is about $270,000, and there is now over $260,000 expended. In my estimation, there is no possible way of getting out of that contract without a loss of from $75,000 to $80,000.

Q. And that by as good management as could be given?—A. As could possibly be given.

Q. What is a fair profit for handling flour by the sack where you are dealing in ordinary business transactions with responsible men—say in Sioux City?—A. I was in the mercantile business in Sioux City, and we regarded a dollar a sack as the profit we should have. At Carlisle, Pennsylvania, the profit would be a dollar a barrel.

Q. What difference would there be between dealing with responsible individuals in the purchase and sale of flour and dealing with the Government, where you would have to look to the Government for your pay, and have vouchers sent on to Washington and audited in the ordinary way?—A. My experience is, that there would be quite a difference in favor of the private individual, from the fact that you are supposed to get the money when the transaction is completed, whereas transactions with the Government, in connection with the Indian Bureau, have been very different from that.

Q. In ordinary transactions, where there is nothing but the usual official delay, the difference is against the Government?—A. Yes; quite a difference.

Q. You say that you paid for freight in the delivering of those goods, under the contract of June 17, $1 90 per 100 pounds to all points?—A. Yes.

Q. What season was that in?—A. In the month of July.

Q. Is that the most favorable time for freight?—A. It is the very best season of the year.

Q. Are you familiar with transportation on the Missouri River?—A. I am.

Q. How long have you been engaged in business in that country?—A. I was engaged in business there from 1857 up to 1867, about ten years.

Q. About what time of the year does navigation practically close about Sioux City?—A. What we understand in trading on the Missouri River is, that all freight should be sent up on what we call the June rise. There is a rise in the river which generally commences the 1st of June and lasts till about the middle of July, which is the time at which freights are lowest, from the fact that there is plenty of water, and that the navigation is very easy. After that the river commences to fall, and becomes hard to navigate. The delays then are very great, and there is a necessary increase in the price of freight.

Q. Do you recollect about what time for the past three or four or five years the river has frozen over at Sioux City?—A. It is generally considered that the navigation of the Missouri River is about closed on the 1st of October, and the September rates are very high. Every person who has freight to get up the Missouri River does it from the 1st of June till the 1st of August.

Q. Can you give, from your experience, any prices that you have had to pay in the late months of the year?—A. When General Sherman and General Sanburn were up there as commissioners, I had a contract to deliver some supplies for them. I hired my own freight, and I paid an average of 6 cents a pound from Sioux City to Yankton agency, Crow Creek, Fort Sully, Fort Rice, and Fort Berthold. The boat, I think, left about the 25th of September. I hired a boat the season before to take up grain to Fort Sully to the quartermaster's department. It was in the month of August, I think, and I paid 3 cents a pound. Along in the fall of the year the average price has been

about $1 per hundred pounds for a hundred miles. I think that in my contract with General Sherman and General Sanburn it was fixed at $1 50 per hundred pounds per hundred miles; but the usual price with merchants is supposed to be about $1 a hundred pounds per hundred miles.

Q. Had you any pecuniary interest in the Treasury warrants that you indorsed for Mr. Woolworth?—A. None whatever.

Q. Was it a mere matter of accommodation?—A. A mere matter of accommodation. I had the money for a little while before he drew it.

Q. And to that extent you derived a benefit from it?—A. Yes?

Q. But you returned the amount to him dollar for dollar?—A. Dollar for dollar.

Q. In no sense were you benefited by it?—A. In no sense.

Q. You had no compensation for it?—A. In no shape or form.

Q. Did you solicit the extension of the contract of 10th of August, 1870?—A. I did not.

Q. Had you any notice of it, except as you have already stated?—A. Except as I have already stated.

Q. Had General Parker any pecuniary interest, directly or indirectly, in any contract that he made with you for the supplies of the Indians, or in regard to matters here in controversy?—A. He had not.

By Mr. SARGENT:

Q. Did you have any written contract with Mr. Morrow by which you acquired an interest in his contract with the Indian Department?—A. Not until after the contract was awarded.

Q. When you made that written contract did you know the price which Mr. Morrow had bid and taken the contract for?—A. Yes.

Q. With your previous experience in buying cattle and furnishing them under contract with the department, did you still go as a partner with him at that reduced price?—A. I objected to it and asked to be released from it; but the other parties connected with it claimed that they had gone into it upon my agreement and insisted upon my remaining in it.

Q. Then I understand that you agreed, having already a bid for what you considered a proper price, to take an interest in a contract, if it was awarded, on some other bid, without knowing anything about what that bid would be?—A. Yes; from the fact that I had confidence in the parties who agreed to fill it and manage it.

Q. Did you not seek to protect yourself by getting some idea of the price they would offer to furnish the cattle for?—A. Yes; I asked Mr. Morrow what he was going to bid, and his remark was, that I should leave that to him; that he would not bid at such a price that he would lose money. I told him that I had entire confidence in his judgment.

Q. When you afterward found that he had bid such a price that money must inevitably be lost on it, contrary to his agreement with you, you still allowed yourself to go into the contract?—A. I did, because I could not get out of it.

Q. Was it not part of the agreement that he should not bid such a price as that you should lose on it?—A. No; it was an open transaction.

Q. How much money did you put into it?—A. Something over $200,000.

Q. Knowing at the time that there must be an inevitable loss?—A. I put it in since the contract was made. The parties went to work to purchase the cattle, and drew on me.

Q. My question was, whether you put in $200,000 at the time you knew the price would result inevitably in a loss of $70,000 or $80,000?—A. No; I lent this money to the company and took their written obligation for it, at the legal rate of interest, 12 per cent. a year. My money is a loan to the company.

Q. What interest do you own in the contract?—A. Half of it.

Q. And do you supply the money for half the contract and loan $200,000 besides?—A. I loan the company over $200,000, myself being one of the company.

Q. You have loaned the company over $200,000, with the inevitable result, in your judgment, that the company would lose $75,000 or $100,000 in the operation?—A. That was not the inevitable result when I did it; but that is, in my judgment now, the inevitable result. My agreement was to loan the company $200,000. That was before the thing was done.

Q. You knew then what the price under the contract was?—A. Yes; but I did not know what they would have to pay for the cattle.

Q. At what time was the Northwestern Transportation Company organized?—A. I do not know.

Q. Was it in existence at the time you carried goods for Harney and Sherman?—A. Yes; one season it was, and another it was not.

Q. Did it have the force of boats on the river that it now has?—A. I cannot say; they carried freight for me that season; but I don't know how many boats they had.

Q. Is that company now charging 6 cents a pound for freight?—A. I do not know; I have had no transactions with them since July.

By Mr. CHIPMAN:

Q. In subsequently complying with your verbal promise to Mr. Morrow, did you do it because you felt yourself obligated to do it—because you had given your faith to stand by him?—A. I went in with him because I had agreed to, and because these men insisted on my standing by my agreement. I objected to what they had done, and they gave me the reasons why they had done it.

Q. And you went into it simply to fulfill your agreement?—A. Yes, sir.

By Mr. WELSH:

Q. Did you make any bargain with Mr. Morrow to delay the delivery of the large contract, so as to allow you to make your other deliveries?—A. None whatever.

Q. What did you pay for the cattle delivered in October and November at Whetstone and Yankton?—A. Four and a half cents a pound.

Q. To whom did you pay that?—A. To the party I made the contract with—Bosler, Herman & Co.

Q. Have you any vouchers from them here?—A. Not in Washington.

Q. Do you know what they paid?—A. I do not. I never asked the question.

Q. What did you pay to Odell & Wheeler for the 4,100 cattle that were delivered under the $3 88 contract?—A. I do not know that I ever saw the men or any party connected with the contract. I left Omaha just about the time the contract was executed.

Q You do not know what was paid for the cattle?—A. I do not.

Q. What was paid for the cattle that were left at Choutean Creek, 1,200 to 1,300 head?—A. I do not know.

Q. What was paid for the 1,200 or 1,400 head of cattle that were left at Crow Creek, Hutchinson's cattle?—A. All I know is that I placed, altogether, some $200,000 to the credit of Morrow & McCormick for them to draw against, and I have had no statement from them as to what they paid for the cattle.

WASHINGTON, D. C., *January* 31, 1871.

CHARLES E. HEDGES sworn and examined.

To Mr. CHIPMAN:

I reside in Sioux City, Iowa. I have resided there for fourteen years. For the last five or six years I have been engaged in the cattle business.

Question. What have been your annual average transactions?—Answer. From $100,000 to $150,000.

Q. Have you delivered cattle to the various Indian agencies up the Missouri River?—A. Yes; to some of the military agencies and posts up the river.

Q. You know something of the risks of delivering cattle in that country?—A. I have experienced some of them.

Q. Do you know what cattle were worth about Sioux City in June, 1870?—A. I was buying cattle at from 4 to 5 cents gross. I have paid 4½ and 5 cents.

Q. Did you sell any beef to the contractor who was supplying the commissary department for the various posts up the river last year?—A. I had a half interest in the 400 head of cattle sold to Colonel Denman last spring.

Q. Were they sold to fill the Fenlon contract?—A. That is what he said.

Q. What did you sell for?—A. Five cents at Sioux City.

Q. As they came from the scales?—A. Yes.

Q. When was that?—A. I think it was in the month of May. He had exhausted the supply on hand, and this purchase was to fill up.

Q. At the time you made this sale, were there other cattle in the market in Sioux City?—A. Yes, in the vicinity.

Q. Do you know whether Colonel Denman had made efforts to get cattle?—A. Yes; he said that he found mine to be as cheap as any that were offered. H. T. Booge & Co. had a half interest in this 400 head.

Q. What was the difference, if any, between the prices of cattle in Sioux City in May and in June, 1870?—A. There was very little change in that time.

Q. Did Mr. Bosler apply to your firm for cattle in the latter part of June, 1870; and, if so, what were your prices?—A. He asked us what we would furnish cattle for, and we told him at 4½ cents a pound. That was in June, 1870, at Sioux City.

Q. What percentage would the risks and expenses of delivery from Sioux City, up the Missouri River, at the various agencies, reaching as high as Grand River, be beyond delivering the same cattle at Sioux City?—A. It would be owing a great deal to a man's luck. I suppose somewhere from 20 to 40 per cent., I think.

Q. Explain some of these risks.—A. In handling Texas cattle there is a risk of their stampeding. I remember one time when a lot of cattle was frightened by a man having a buffalo robe, who gave a sort of Indian whoop, and the whole herd ran away for twenty-five miles.

Q. Did you bid for any Indian contract in the latter part of September for cattle; and, if so, what was your bid?—A. I bid 5 cents.

Q. Had prices declined at that time under those ruling in the spring?—A. There seemed to be a material decline in prices from the large influx of Texas cattle, and from the general depression of the money market. We had bid at 3½ cents in the fall.

Q. How do the rates along the Pacific railroad, at Sioux City, compare with the rates at Chicago for Texas cattle?—A. We can get the cattle there at the Chicago prices, less freight and commission.

Q. What is the price per car from Omaha to Chicago?—A. I was told by the agent of the railroad that the price was $80. That would be from 50 to 60 cents per hundred pounds.

Q. What would you estimate to be the commission?—A. Fifty cents a head.

Q. What would have been a fair price for cattle delivered at the various posts up the Missouri River, as high as Grand River, on a contract, made in June, 1870, calling for from 1,200,000 to 1,500,000 pounds of beef, to be delivered, one-third on July 15, one-third on August 1, and one-third on September 1, 1870, when, at the time the contract was made, there was no provision for payment by an appropriation of Congress?—A. My experience has not been very satisfactory in waiting for appropriations. Taking my experience, I would not like to furnish it at less than from 5½ to 7 cents a pound.

Q. What difference would you make between furnishing cattle to a private individual, who was ready to pay on delivery, and furnishing cattle to the Government, where you would have to wait until the vouchers go to Washington and are audited in the usual course?—A. From 12 to 15 per cent.

Q. Can you give any instance where you had contracts?—A. I furnished about $3,000 worth of cattle for Mr. Finni's contract, and we fed cattle between the time Mr. Finni's contract closed and the reletting of the contract.

Q. At what prices did you furnish beef to the Winnebagoes?—A. At three and a half cents at Sioux City. This tribe is eighteen miles below Sioux City, on the opposite side of the river. This was, I think, in September and October, and part in November, 1870.

Q. Did you furnish cattle to General Harney along the river?—A. Yes; I had a half interest in Booge's contract. That contract, I think, was for about 50,000 or 60,000, at $7 80 per hundred pounds gross weight, for delivery at Whetstone, Cheyenne, and Grand River.

Q. Did you regard that as a fair price at that time?—A. We thought it a profitable price at the time, but it did not turn out in the end to be so.

Mr. BECK objected to the evidence going back beyond 1870.

Mr. CHIPMAN offered to show by the witness and by other witnesses, that in 1868 and 1869 beef and other supplies were furnished to the various agencies involved in this investigation, under similar circumstances to those in this case; that the supplies then cost the contractors about the amount paid for the supplies furnished in 1870; that in dealing with the Government there is a certain amount of risk and delay in the collection of the money, and that that circumstance had for many years entered into the computation made by contractors in dealing with the Government, and should legitimately be shown in this case to establish the fact that the matter was known to the Commissioner of Indian Affairs, and that he necessarily dealt with contractors in view of it. He offered to show that beef supplied to General Harney in 1868 and 1869 was paid for at the rate of $7 80 per hundred pounds gross, at a time when cattle in Omaha cost about the same price as they did in 1870. He desired to show that the prices of flour and other supplies did not vary materially in 1870 from the prices in 1868 and 1869, when high rates were paid by the Indian Department.

The committee decided that the prices paid for the beef, flour, and other supplies, in 1868 and 1869, did not, in its opinion, elucidate the question as to the value of those supplies in 1870, and that as to the difficulties in dealing with the Indian Department, the witnesses were permitted to speak of anything that they knew on that subject.

Q. What kind of cattle was furnished under the Winnebago contract at three and a half cents per pound gross?—A. They were young, thin, rough cattle.

Q. Explain the difference between such cattle and good, merchantable cattle, as mentioned in the Bosler contract of June 17?—A. The difference that we make between young, thin cows, and stag cattle and mature steers seven years old, would be from one to one and a half cents a pound. For instance, if we pay three and a half cents for these thin, young cows, we pay from four to four and a half cents for a steer.

Q. What do good, first-class Texas cattle average in weight?—A. From 1,000 to 1,100 pounds; owing to age.

Q. Do you recollect any average weight of cattle above 1,200 pounds?—A. I once turned over 150 head of cattle that averaged 1,300 pounds.

Q. Are you familiar with navigation on the Missouri River?—A. I suppose I am familiar with the shipping trade to the different points.

Q. In ordinary seasons, what would land transportation be worth when large quantities of supplies are to be carried from Sioux City to Grand River and Fort Berthold

by land?—A. To Grand River, freight would be worth from seven to eight cents, in large quantities; in smaller quantities it would be cheaper.

Q. How about freight to Fort Berthold?—A. I never knew of any land transportation from Sioux City to Fort Berthold. I never knew anybody who would take the risk.

Q. At what season of the year does navigation practically and usually close at Sioux City?—A. Generally about the middle of October; sometimes boats run later.

Q. Do you deal in flour?—A. Limitedly, not extensively.

Q. Do you know anything about the capacity of that country about Sioux City for the supply of flour?—A. Yes; I have some knowledge of it.

Q. What effect upon the flour market would an immediate demand for 28,000 sacks have if it were generally known—say in August last?—A. It would have the effect of immediately appreciating the market price.

Q. Up to what point?—A. It is pretty difficult to determine.

Q. Can you state what appreciation it would make in the price?—A. From fifty cents to a dollar a sack.

Q. Why?—A. Everybody in the country would know that it would require nearly all the flour in the country to fill such a contract, and they would be satisfied that they could get their own prices, and would regulate their prices by what it would cost to ship it there from Chicago.

Q. If you were going to purchase 28,000 sacks of flour in Sioux City at the best rates, would you advertise for it, or would you buy it quietly?—A. If I wanted to get it at good prices, I think I would go around and buy it quietly.

By Mr. WELSH:

Q. Do you know the price of beef in Schuyler and Abilene last year?—A. I do not.

Q. Do you know the prices at which the drovers from Texas deliver cattle on the Missouri River?—A. No, sir.

Q. Do you know George K. Hazlitt, the clerk of the Northwestern Transportation Company?—A. I have seen him, and I know him when I see him.

Q. Do you know that the contract for the Northwestern Transportation Company was taken in his name?—A. I heard it.

Q. Did you see the advertisement for that contract last spring?—A. I cannot tell whether I did or not. I know from general report that there was a contract to be let for freight up the river, but I do not know whether I saw the advertisement or not.

Q. Did you ship any goods up the river last season?—A. A limited amount—not much.

Q. To what points?—A. I shipped salt on a little bit of a contract for the Santee agency.

Q. What freight did you pay?—A. I believe I paid $3 a barrel.

By Mr. SARGENT:

Q. The impression to which you refer, and which makes you afraid of Indian contracts, is derived from your experience in the Harney case?—A. In the Harney case and one or two other cases.

Q. That was where contracts were made in advance of appropriations?—A. Yes, sir; and there is also a difference in cash being paid there, and in having to send vouchers on to Washington to collect pay, even where there is an appropriation.

Q. Then there is a difference against the Government where appropriations are not yet made?—A. Yes; we have always deemed it so.

Q. In such cases, then, it would be very much better for the Government to avoid buying, if possible, when there is no appropriation?—A. That would be my experience.

Q. The Government would get better bargains after the appropriation is made?—A. A good deal better.

Q. Then if there were an emergency arising requiring the purchase of cattle a month before the appropriation bill was passed, would it not be better to buy only cattle enough for that month, and to buy the rest after the appropriation bill had passed?

(Objected to by Mr. Chipman, and objection overruled.)

A. The Government can make a better contract when there is a certainty of getting the money when the appropriation bill is passed. But there is a difference on account of the red tape and the difficulty in getting paid. We pay 1¼ per cent. a month there on money.

Q. Are you putting any stress upon the consideration that an appropriation has passed or has not passed?—A. It makes a good deal of difference whether the appropriation bill has passed or whether it has not passed; but I would make a difference, also, between making a contract with the Government where the appropriation bill is passed, and getting cash in the country.

Q. If a fair price would be from 5 to 7 cents in the absence of any appropriation bill, what would be a fair price with an appropriation bill?—A. From 4¾ to 6 cents.

WASHINGTON, D. C., *January* 31, 1871

JOHN DOBSON sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. I reside in Philadelphia.

Q. Were you a bidder for the contract with the Indian Department, in pursuance of the advertisement of July 29, 1870?—A. I was.

Q. Did you furnish a quantity of blankets, among other articles?—A. Yes.

Q. Do you recognize this blanket as one of the blankets furnished by you?—A. Yes, sir.

Q. At what price did you furnish these goods under the contract?—A. I believe at seven dollars per pair.

Q. How does this blanket of yours compare in quality with the other blanket now shown you?—A. There is no comparison at all between them. This other blanket is not the right color. This blanket furnished by us for seven dollars is a heavy blanket; I should think it was nearly a pound heavier.

Q. State whether, under this contract of yours, if the Commissioner of Indian Affairs had desired 200 or 300 more pairs for seven dollars of these blankets you would have been required to furnish them?—A. No, sir; not under the contract. The contract did not so read. We were getting more for the blankets in the market.

Q. The advertisement contains this clause: "The right will be reserved to require none or a greater or less quantity of any of the articles than that specified in the above list at the prices proposed."—A. Yes; but when we got the contract the quantity was filled up, and there was an end to it.

Q. What would you furnish these blankets for outside of the contract?—A. Eight dollars; that is our regular price for selling to the trade.

By Mr. CHIPMAN:

Q. Your blanket has been in competition with the Amidon, Lane & Co. blanket?—A. Yes.

Q. Is there not a difference of opinion as to the merits of the two blankets?—A. Yes; of course. Amidon thinks his blanket as good as mine.

Q. Do not the persons who purchase both have a different opinion about them?—A. Our goods they call standard goods, and I guess where Amidon, Lane & Co. sell one we sell twenty. If there is any difference of opinion it is because they can afford to sell theirs a little cheaper than we can ours. Ours is made of a different material and of a different dye.

Q. The blanket exhibited to you to-night as Amidon, Lane & Co.'s is not their ordinary blanket that is in competition with yours?—A. I cannot speak of that blanket. I can swear that the other is one of our manufacture.

A. But the dark one you do not know anything about?—A. No.

Q. It does not look like Amidon, Lane & Co.'s blanket?—A. I do not know anything about their goods.

Q. What do they sell their blankets for?—A. They sell at various prices. I know that as a general thing they do not get as much for them as we do within from five to ten cents a pound.

By Mr. SARGENT:

Q. You are accustomed to handle blankets and you know their valne?—A. Yes.

Q. And you say that the article exhibited to you as yours is superior in weight and quality to the other article exhibited as Amidon, Lane & Co.'s?—A. Oh, yes; there is a difference of fifteen cents a pound in the market between them. Put them alongside of each other and the Amidon, Lane & Co. blanket would not bring within twenty cents a pound as much as ours.

By Mr. CHIPMAN:

Q. You say that yours rate at $8 to the trade generally?—A. Yes, I believe that is the present price.

Q. And you furnish to the Government at $7 on account of the large quantity supplied?—A. Yes.

By Mr. SARGENT:

Q. Suppose when the contract was made up in pursuance of this advertisement the Commissioner had required you to furnish 200 or 500 pairs more of your blankets, would you have been required to furnish them at the time of making the contract?—A. Oh, yes; I should have given them to him at the time of making the contract.

WASHINGTON, D. C., *January* 31, 1871.

VINCENT COLYER recalled and examined.

By Mr. SARGENT:

Question. Where did this blanket come from which the witness has just testified was furnished by himself?—Answer. It came from his house, Dobson & Co. It was purchased under the supervision of our board.

Q. Where did this other blanket, the dark one, come from?—A. It was sent to us by Agent Gibson, of the Osages, as a sample of the goods sent on to him among the presents by Commissioner Parker. They were purchased from Buckley, Welling & Co. This darker blanket is a Buckley, Welling & Co., made by Amidon, Lane & Co.

By Mr. CHIPMAN:

Q. Did you see all the blankets delivered to the Osages?—A. No, sir; we did not see any of them delivered; they had not arrived while we were there.

Q. Do you know how many of those dark blankets there were?—A. There was one bale like this.

Q. There was no objection to the others?—A. Agent Gibson said that the others may have been a shade better; that was all.

Q, You know nothing about the matter except from a letter written to you by Agent Gibson, accompanying a blanket which purported to have been delivered to the Osages?—A. Yes. We received it from Agent Gibson by express.

Q. Did you make known these facts to Commissioner Parker after you learned them?—A. Commissioner Parker was sick at the time. We report directly to the Secretary of the Interior.

Q. Did you, as the organ of the board, make known this matter to Commissioner Parker at all?—A. I could not do it; he was sick at his house.

Q. For how long a time?—A. Until this investigation took place.

Q. When did you first come to the knowledge that these defective blankets had been sent to the Osages?—A. This blanket was delivered to us in Mr. Dodge's store about three or four days before Mr. Commissioner Parker appeared here.

Q. Had you not heard of it before?—A. Undoubtedly; but not to take notice of it. The blankets had not arrived at our office. We report directly to the Secretary of the Interior; all our official communications are with him.

Q. And you do not have official communication with the Commissioner?—A. Not unless the Secretary of the Interior directs us.

WASHINGTON, D. C., *January* 31, 1871.

STEWART WILSON sworn and examined.

By Mr. SARGENT:

Question. What is your business?—Answer. I am in the commission dry goods; the name of the firm is Wilson & Bradbury.

Q. Have you any connection with Mr. Dobson in business?—A. We are the agents for Dobson.

Q. Do you know the blankets manufactured by Mr. Dobson?—A. Yes.

Q. Do you recognize this blanket as one of his manufacture?—A. Yes, these are the goods we sell.

Q. What is the difference in value between this blanket and the other blanket that I now hand you?—A. The difference in dye would be great. This one is a light dye, not fast. The difference would be about fifteen cents a pound in favor of the Dobson blanket. This other blanket feels as if the warp was not all clean wool.

Q. If the Dobson blanket is worth $8 in the market, what is the other worth?—A. This other is not quite so heavy. It is supposed to be a three point blanket. It would be worth about $7.

Q. Suppose this Dobson blanket was worth $7, what would be the value of the other?—A. About $1 10 or $1 15 less. We calculate at so much a pound for the difference in dye and stock.

Q. Are you accustomed to handle blankets, so as to know their quality and character?—A. I sell more blankets than any ten men in the United States.

Q. As an expert, you say that the Dobson blanket is a greatly superior blanket to the other?—A. O, certainly; it is a better blanket.

By Mr. CHIPMAN:

Q. What difference do you attach to the matter of the color?—A. The difference in dye would be about seven or eight cents a pound, I think. The difference in quality would make it about the fifteen cents.

Q. Did you ever have occasion to use a blanket of this kind in actual wear?—A Yes, I have traveled with one of these Dobson blankets four or five thousand miles.

Q. Did you ever travel with one of the Amidon blankets?—A. No, sir.

Q. Do you know which one would last the longest?—A. The better material always wears the longest. I do not know whether that is an Amidon blanket or not.

Q. Speaking of those two blankets, can you say that the Dobson blanket would wear longer than the other blanket?—A. Yes. In the first place it would retain the color, and this other one will not.

Q. Color has nothing to do with the wear?—A. O, yes. Sometimes brown will rot the fabric. I do not know what this dye is.

Q. If you do not know what the dye is, how can you tell whether it would be durable or not?—A. It might be durable.

Q. It is more a question of sale to the trade than of actual wear?—A. In point of beauty and wear I should think that the Dobson blanket is a much better one.

Q. Is there not some feeling of jealousy and competition between Amidon, Lane & Co., and Dobson & Co.?—A. Not that I know of. We suppose that ours is a much better blanket. If you were to pile these blankets up and a customer came in, he would certainly pay more for the Dobson blanket than for the other one. An Indian would not buy this other color at all if he could get the color of the Dobson blanket. The other blanket might wear well enough, but it is not of the color to be saleable.

Q. The merchants buy both the Amidon and Dobson blankets?—A. I know that we sell all the best trade in the United States. They sell a large quantity of blankets, but I never heard of their selling Indian blankets. There is no doubt that they have made a few pairs of Indian blankets, but I believe they have had hard work in selling them.

Q. Do they not make scarlet blankets?—A. Yes, they make scarlets, and a few blues, I believe.

Q. What you know of the Amidon trade and blanket is from hearsay?—A. I know that they sell a good many bed blankets and green blankets; but I know that we supply the best trade.

WASHINGTON, D. C., *January* 31, 1871.

JOHN H. CHARLES sworn and examined.

To Mr. CHIPMAN:

I reside in Sioux City, Iowa; I have lived there since 1856; during the last ten years I have been in the mercantile business; I do an exclusively wholesale business.

Question. Have you become somewhat familiar with transportation on the Missouri River?—Answer. Yes, sir.

Q. At what time does navigation usually close at Sioux City as against freights going up as high as Crow Creek?—A. Ordinarily, I should say by the 1st of October; the 15th of October is the outside.

Q. If you were going to make an arrangement to send freight up from Sioux City, about October 10 or 15, on what basis would you figure?—A. I might not be able to ship it at all by the river, and I could not give any rate, unless I knew what kind of weather we were going to have; if I were a contractor, I certainly would not agree to carry freight by boat after that time; I would make my calculations to carry it by land, and if I could ship it by boat I would do so.

Q. What would be the difference in shipping to the various Indian agencies along the Missouri River, on a basis of land operation, between small lots of from ten to twenty-five tons, and large lots of from 2,000 to 3,000 tons?—A. You can ship small lots for less money than large ones, because the transportation of the kind necessary to transport a large amount of freight is scarce in that country. There are many who will offer to carry ten tons, but there are very few who will compete for carrying 500 tons. There would be few bids for a contract of that size.

Q. And when it gets to a thousand tons the difficulty is still greater?—A. There is not anybody there who can transport a thousand tons by land within a month. The only one who could do it would be somebody who would purchase teams and wagons for the express purpose.

Q. Would the rates be higher or lower on a large contract or on a small one?—A. For from 500 to 1,000 tons the rates would be higher than they would be for from ten to fifteen or fifty tons, in consequence of the difficulty in finding men who would be responsible for that amount of frieght. For ten tons you would have a good many bidders who would come in and say they would carry it for so and so, and the competition would be such as to bring down prices. When you get to fifty tons you do away with a certain portion of that competition, and when you get to 500 there are very few people there who would be willing to take a contract for that much.

Q. A contract was made on the 26th of September, 1870, for transportation from Sioux City to Yankton Agency, at $2 25 per hundred pounds; from Sioux City to Brulé and Crow Creek, at $4 25; from Sioux City to Whetstone Agency, at $3 25; from Sioux City to Cheyenne Agency, at $5 25; and to Grand River, at $6 25; and to Fort Berthold, at $7 50; this freight to be transported at any time during the months of September, October, November, and December, 1870, the contract covering from ten to twelve hundred tons of freight. State whether or not, from your knowledge of the

navigation of that river at that season of the year, those rates were reasonable or otherwise?—A. I would have to base the calculation to a great extent upon land transportation. To Yankton I should think the rates should be $2; to Whetstone, $2 50; to Brulé, $4 50; to Cheyenne, $6 50; to Grand River, $8; to Berthold, it would be worth $15; but it would be an utter impossibility to transport any large amount to Berthold. It would be necessary to have a military escort to get there, and you could not get your cattle and teams back short of the following spring. That point is virtually out of the question. I have hauled to all these points. To Grand River I am paying 8 cents a pound now, and that is considered cheap. If it were a large lot I could not get it done for that. To Cheyenne I have paid 6½ cents; to Brulé I have paid for small lots 4 cents, but for large lots it could not be done short of 4½ cents; 4 cents would be the bottom price.

Q. Taking this contract with its provisions, made about the middle of September, for freight running through to the latter part of November, and with the chance of having freight thrown upon the hands of the contractor in December, with your knowledge of the navigation on that river, and of the time when it usually closes, state whether or not this contract is fair and reasonable.—A. The upper rates upon the basis that I am calculating would be very low—lower than I would want to take them. The rates for the lower points, that is to say, Yankton Agency and Whetstone, would be a good contract. I would be willing to carry freight for them.

Q. Taking the contract altogether, is it fair or otherwise?—A. It depends upon how much is to go to the upper points.

Q. Take it as requiring about equal distribution to the various points, high and low.—A. With the chances that at least a part of the freight could be taken by boat, I would be willing to take the contract, but I do not believe I would be very anxious to get it, because these upper rates would eat up the profits.

Q. The profits would come from the lower points?—A. Entirely, in the way I figure it.

Q. Do you recollect any instance where you have made contracts for taking freights up the river?—A. We shipped for Durfy & Peck goods which they had sold to General Harney in 1868, in November, by an ox train that went up there, and my recollection is that they got eight cents a pound for it; I think there was a contract; I recollect that we circulated printed advertisements through town and among all the people who we thought might furnish transportation for thirty or forty tons, and I think that the rates to the upper points averaged eight cents a pound; they may have been higher to Grand River and a little lower to some of the lower points. I furnished money to purchase wagons and outfits, and the result of it was that one of the men got out of the operation so badly that he only paid up the last note that he gave me ten or fifteen days ago, and they never could have paid fifty cents on the dollar if the Government had not purchased their teams when they got there; they made a very good sale of their cattle at seven cents a pound.

Q. For the last five or six years, at what time has navigation practically closed at Sioux City?—A. I should think about the 15th of October. Five years ago there was a different feeling in regard to navigating that upper river, and it was hard to get a boat to go up there after the 15th of October on account of the winds and bad weather; they might be overtaken up there and detained; but of late years they have got lighter-draught boats, and they venture out later in the season, so that what was good five years ago is scarcely good to-day. I should think that as late as the middle of October is as late as boats should go out as a general thing. This season was an extraordinary one, and boats ran through November.

Q. What is the limit up the river that they could venture?—A. I should not think, as a general thing, that they could go above Whetstone.

Q. There was a contract made with the Quartermaster General's Department, running from March 20 to October 31, 1870, with Hiram K. Hazlitt, for transportation from St. Louis, embracing the forts from Sioux City up. In this contract there is a provision for way freights and a provision for down freights; it embraces soldiers, officers, horses, cattle, mules, wagons, ambulances, and carts; it provides also for ten days' notice prior to shipment from Sioux City. The rates are, from Sioux City to Yankton, 75 cents per hundred pounds; to Whetstone, $1; to Brulé, $1 10; to Crow Creek, $1 25; to Cheyenne, $1 60; to Grand River, $1 60; to Berthold, $2, all for August; and for September, to Yankton, $1 50; to Whetstone, $1 60; to Brulé, $2 20; to Crow Creek, $2 50; to Cheyenne, $3 20; to Grand River, $3 20, and to Berthold, $4; and for October rates, 20⁰ per cent. above the August rates. With the understanding that the bulk of the freights would be sent up in the early months, I want your opinion as to whether that contract would be better or worse for the contractor than the contract made with the Indian Department by the Northwestern Transportation Company on September 26.—A. Looking back, I would take the Indian contract in preference.

Q. How would it be if you were contracting to do so next year; which would you regard as the most profitable for the contractor, the contract with the Quartermaster General's Department, or that with the Commissioner of Indian Affairs?—A. The mili-

tary contract is the best, and I would rather have it. Looking back now, I can see very well that there was more money in the Indian contract; but if I was going to contract without knowing anything of the future, I would take the military contract by all means.

Q. On what circumstances do you base your judgment?—A. Owing to the fact of our having had a remarkable season, so that nearly all the freight could have been carried by boat.

Q. Was this season unusual?—A. Certainly; the average time for closing navigation on the Missouri River is between the 1st and 15th of October.

Q. When this contract was made in the middle of September, could any human knowledge have foreseen the good fortune that followed in October and November?—A. I believe I could not have foreseen it.

Q. There was nothing to indicate it.—A. No, sir.

Q. Can you recollect such a season as the last during your residence in that country?—A. Yes, we have had one other season since I have been there that was very like this one. It must have been about 1860 or 1861. We had just such a fall; the river remained open until late in December at least.

Q. Do you think the contract of the Northwestern Transportation Company would have been a profitable one but for those favorable circumstances?—A. I would not have wanted it myself if it had been an ordinary season.

Q. Are you a dealer in flour?—A. Yes.

Q. To what extent?—A. I have bought and sold flour for ten years.

Q. Did you have anything to do with filling the Bosler contract for flour in August?—A. I sold Mr. Bosler some flour which was shipped to the agencies for him, about 23,000 sacks in all.

Q. How did you buy it?—A. I bought it in and around Sioux City. I bought some of it below Sioux City on the railroad. I bought some of it above Sioux City on the river. We sell flour for most of the mills around the city, as their agents. The first 5,000 sacks that I sold to Mr. Bosler we purchased a portion of the preceding March, and had on hand at the time.

Q. How did you fill this contract?—A. The second 5,000 sacks that Mr. Bosler wanted, I went to the mills and contracted with them to take all the flour they could make within a certain time, up to the 1st of October.

Q. Did you bind them up?—A. Yes; that they should not grind for anybody else but for me, so much so that some of the mills come to our store to get us to fill orders which they had contracted prior to making this arrangement with us, paying us more for the flour than we paid to them.

Q. Did you know at the time how much Mr. Bosler wanted?—A. I did not. My first sale to him was 5,000 sacks; then I sold him 5,000 more; and before that order was filled, he said he might want 5,000 sacks more; and we kept on that way, from time to time getting his orders for more flour, until we sold him 23,000 sacks.

Q. If it had been known at the time by you, and by the mills there generally, that 20,000 or 30,000 sacks would have been required, what effect would that have had upon the market?—A. If it had been understood that 25,000 sacks of flour were wanted, it would have raised the price of flour, and brought it very near to the rates for which it could be procured from Chicago, say $3 75 per 100 pounds. It would not have brought it up to that price exactly, but would have kept just inside of it, so as to prevent shipments of flour from Chicago.

Q. Did the quiet way in which you made your purchases have any effect upon the market?—A. Yes, sir; taking out that much flour left the mills bare, and left the merchants bare. One of the merchants came to me and bought some flour, giving me twenty-five cents advance on the price which I had paid to him on the same flour. He had his granary full of wheat at the time, but he could not get it ground, because the mills were working for me. The Chicago prices of wheat went up, and of course the city prices went up.

Q. What did you charge Mr. Bosler per sack?—A. Finally, in settling up, I charged him $3. I paid $3 myself for some of the flour, and $2 75 for quite a good deal of it.

Q. Would you make any difference between dealing with such a man as Bosler in the sale of flour, and dealing with the Government; if so, what difference would you make?—A. My experience with the Indian Department has not been very pleasant. I held a lot of their vouchers eighteen months, and could hardly get my pay then. I would rather sell cheap for cash to a man who I knew would pay on the day he promised, than sell on vouchers, and especially to the Indian Department.

Q. Do you regard Mr. Bosler as a man of prompt payment?—A. I do; I know him since 1857.

Q. What is his standing for business integrity, and character?—A. A number one, first-rate; none better.

Q. What is the difference between selling to a man who pays promptly and selling to the Government, where there is nothing but the customary delays in sending vouchers on to Washington and having accounts audited?—A. I would make twenty-

five per cent. difference in favor of a man who would pay promptly, and whom, if he failed to pay, I could sue. I would want to charge the Indian Department twenty-five per cent. more than I would Mr. Bosler, or a man like him. I am willing to admit, however, that my experience with Indian vouchers has not been quite so pleasant as it might have been.

Q. What do you have to pay for the use of money up there?—A. From one to two per cent. a month. A low rate is one per cent. The usual bank rate is two per cent.

Q. What would have been a fair margin or profit to warrant a prudent man in making a contract for 20,000 or 30,000 sacks of flour with the Indian Department at the time you have mentioned—do I understand you to fix it at twenty-five per cent?—A. What would be my rate, I should not want to do it for anything less. When we handle flour for merchants and people who pay promptly, our usual profit is twenty-five or thirty cents a sack. That is a fair wholesale profit; it is less than ten per cent.

Q. If the Commissioner of Indian Affairs had advertised for 20,000 or 30,000 sacks of flour, to be delivered at Sioux City in August and September, 1870, what would have been the effect on the flour market, and what would it have cost?—A. It would have cost me just inside the Chicago prices. For that quality of flour, it would have been in the neighborhood of $3 70 or $3 75. It would have cost that to bring it from Chicago, and we could have bought it just inside of that price. That is all that anybody would have done.

Q. Why would it have had that effect?—A. Because very few people thereabouts could handle 25,000 sacks of flour, and they should have fixed their price at that point.

Q. If you had known that Mr. Bosler wanted that amount of flour, could he have got it out of you at that price?—A. He could not. If I had not sold him the 5,000 sacks I had on hand, I would have got $3 50 for it, and in all probability a little over that.

By Mr. WELSH:

Q. Do you know Hiram K. Hazlitt, of St. Louis?—A. Yes, sir.

Q. Is he a clerk with the Northwestern Transportation Company?—A. No, sir, he is not. He is a steamboat owner, and a first-rate man.

Q. Do you know George H. Hazlitt?—A. I do.

Q. Is he a clerk with the Northwestern Transportation Company?—A. He is or he has been; I do not know whether he is now or not.

Q. Was he at the time the contract was taken?—A. I think he was. I know that he was about there.

Q. Did the Northwestern Transportation Company carry freight under both those contracts from St. Louis and Chicago and Sioux City?—A. I think not. They may have carried it part of the time, but they had a little misunderstanding, and they divided. Hazlitt's boats carried part of it, and Lord's boats carried the balance. What part they carried I cannot tell you; I know there was a division.

Q. Do you generally see the advertisement in the Sioux City papers?—A. I do.

Q. Did you know that the St. Louis contract was authorized to carry the Indian freight?—A. I did not.

Q. Did you see the advertisements for the military contract?—A. I did.

Q Did you propose for it?—A. No, sir.

Q. Did you or not observe that in that military contract all the Indian goods were included?—A. I did not.

Q. In advertising for this military contract, if they had restricted themselves to freight from Sioux City up the river instead of from St. Louis to Sioux City, would there not have been much more competition?—A. There would have been many more competitors.

Q. Would they not have been able to get freight by that competition at a more moderate rate by taking a separate contract from Sioux City up the river instead of coupling St. Louis with it?—A. Yes; the chances would be that way; but still there is another element that comes in. The trouble has been, heretofore, that certain parties there have had the advantage of the railroads and get a lower rate over the railroads than other parties can.

Q. Do you recollect, when I was at Sioux City, giving me these rates as fair rates—to Yankton agency in July and August, 50 cents; in September and October, $1; to Crow Creek, 30 per cent. advance on those rates, and to Cheyenne, 50 per cent. advance on those rates?—A. Yes, sir.

Q. Do you remember exhibiting to me the original bills and getting me to note down very minutely that you had purchased for Bosler 13,398 sacks of flour, in Sioux City, at $2 20; 5,219 sacks of flour, in Yankton, at $2 25; 4,812 at Missouri Junction, and that you had acted as Bosler's agent and charged him 10 cents a sack for labor, commission, &c.; and do you remember that I noted it down in your presence in a book and called the items off to you?—A. Yes, sir; I recollect it distinctly, all about it.

Q. Then about the matter of freight; it is in evidence that $1,493 88 was paid to you for freight from Sioux City to Fort Berthold, at 14 cents per pound, on July 13, 1870. Do you recollect the circumstances under which that was shipped?—A. I think that that was stuff we shipped in May to the agencies—agricultural implements, &c.

Q. Why was that high rate paid?—A. Because you could not get it up any cheaper. I know we shipped it by the first boat we could get. There were potatoes in that lot which should have gone up earlier, but we could not get boats to take them. I desire to say, in reference to flour, I bought some of that flour at $1 75 per sack—I mean some of the first 5,000 sacks that I sold Bosler—but I did not propose to sell it at $1 85, because I bought it in March and held it for four or five months. My contract with Mr. Bosler was in so many words: "Purchase, for me, 5,000 sacks of flour; charge me a profit, we will not differ about it; buy it as cheap as you can." I bought some of that flour at $2, some at $2 15, some at $2 20, and some at $3, and some at $5 75 per barrel, and I charged Mr. Bosler $3 per sack for it, as I had a right to do.

Q. Then why did you tell me that you would charge him $2 20?—A. Because I had not settled with him then.

Q. You gave me 13,000 sacks that you had bought for him at that time at $2 20, and 5,219 at $2 25; that makes nearly 18,600 sacks?—A. I still had 10,000 sacks to buy, and it was to my interest to keep the prices down. If people knew that I was getting three or four dollars a sack, it would have cost me more money. I offered you flour at $2 55 a sack, and would have been glad to sell it to you at that price.

Q. Do you know the price of flour at Omaha?—A. Yes.

Q. At Council Bluffs?—A. Yes.

Q. What was the price at that time?—A. It was from $2 to $3 a sack at that time, depending upon the quality of the flour.

By Mr. SARGENT:

Q. Suppose the bulk of the freight under the Indian Department contract for transportation had been shipped before the middle of September, what difference would that make; would it make the Indian contract for transportation better or worse than that of the Quartermaster's Department?—A. If the bulk of it had been shipped before the 15th of September, I would then rather have the Indian contract at those rates, a good deal.

Q. Suppose the great bulk of it had been shipped before the date of the contract, which was the 26th of September?—A. That would make a big difference, of course, for I would then have known that a certain portion of it was gone, and that that was all safe; but they certainly must have made the contract before that.

Q. Now, it is explained in evidence that the contract was made after a large portion went up the river, and that the rate applied to all that previous freight; how does that affect the matter, in your judgment?—A. That makes it a sure thing, of course, and then I would say that the military contract was right.

Q. So, as to the great bulk of the freight, there was no speculating on chances; it was a sure thing; but if it had to be shipped after that time, the river might be frozen up, and then you would consider the Indian contract not so favorable to the contractor; is that the way I understand you?—A. I think that is it.

By Mr. WELSH:

Q. Did not the boats under your care, the Miner and other boats, carry part of this Indian freight up the river?—A. I know that a portion of it was carried on the Miner, and a part on the Far West, and on several other boats, but what they got I do not know, for I do not own a cent's worth of stock in them.

WASHINGTON, D. C., *February* 1, 1871.

JACOB D. COX sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. At Cincinnati, Ohio.

Q. What position did you recently hold under the Government?—A. The position of Secretary of the Interior.

By General CHIPMAN:

Q. When did you enter upon the discharge of the duties of Secretary of the Interior?—A. In March, 1869.

Q. When did you resign?—A. I left the city on the 1st day of November, 1870; I was in office up to that time.

Q. Do you remember, after the passage of the act of April 10, 1869, creating a board of commissioners to assist in the administration of Indian affairs, whether the question came up as to their powers, and how it was settled, and what they were defined to be by yourself?—A. In the spring of 1869, when the board of commissioners were appointed, I believe their powers were defined by an Executive order signed by the President, which was made the basis of their authority, as I suppose, from that time up, until a new law was passed. That order was printed and copies of it were pretty freely distributed; they were sent to each member of the commission; I have not one myself, but I have no doubt it is in existence.

Q. Did that order issue prior or subsequent to any conversation had with members of the board as to the claims which they had made under the law, or right to exercise certain powers?—A. I do not know what I should say in regard to any claims made by any members of the board. This order was issued after more or less consultation with members of the board in regard to their duties, and getting their ideas pretty fully about them, and was substantially in accord with their wishes, as I understand, as well as the President's desire. (Witness shown printed copy of the executive order appended to this testimony, marked Exhibit A.) The order shown me is the one I refer to.

Q. Did you issue any instructions or inform the Commissioner of Indian Affairs with regard to his duties of recognizing the board in the exercise of their powers? if so, when, and if verbally stated, what they were?—A. I should say that this Executive order was fully known in its substance to the Commissioner before it was executed, and that he was consulted both by the President and myself with regard to it, and that his knowledge, therefore, was coincident with the drawing of the order itself; so that his assent may be said to have been part of the arrangement. Whether any subsequent specific instructions were given to him, I do not know, except that he had the order himself.

Q. You have no recollection of giving him special instructions?—A. No; I have no recollection about it.

Q. To what extent did this board aid your Department in the administration of Indian affairs, and did they always respond to your request for services by them?—A. The members of that board were all men who took the work upon themselves without pay, purely from their interest in it. It was the desire of the President, as well as of myself, to secure their coöperation for the purpose of having a medium between the Department, the Indian Bureau, and the moral and religious community, with a view of giving the Indian work a more philanthropic turn, if possible, than before, in the line of education, and to procure the sort of supervision and inspection of the work of the Department which would assist in making it what it ought to be. And any of these things the members of the board, every one of them, individually and collectively, always expressed the most ardent zeal in doing. Several of them, from ill health, were unable to give much attention to it from the beginning. One or two of them tried to be excused, or resigned on that account. They were urged to remain. Mr. Robert Campbell, of St. Louis, was one of that sort. His resignation was tendered on the ground that he was unable to go on with the work; but on the solicitation of myself, he consented to remain on the board, hoping to get more strength to do so. Mr. Tobey, of Boston, also tendered his resignation on the same ground. And two or three of them several times spoke of their resigning because of their inability, from ill-health or otherwise, to get on sufficiently with the work, according to their own idea of it. But they gradually became better acquainted with the duty itself, and made an organization at last which was intended to coöperate directly with the Department; hence much of their work was in the form of general consultation. From the beginning we endeavored to have an understanding that in the purchase of the annuity goods they should be present and take part, and have the inspections made under their eyes, for the purpose of seeing there was nothing improper done in that. During the year 1869 the supplies were got from the Commissary Department of the Army, by the orders of the head of the Department, in accordance with a consultation had with the President, and thus we thought we covered the two phases of the work. The purchases of the dry goods, &c., and the annuity goods were bought, and to be bought, under the inspection of the board of commissioners; the commissary supplies were obtained from the Commissary General of the Army explicitly, in order that there might be no opportunity for cavil or fault-finding in the work itself. In addition to the inspection of goods, the commissioners themselves agreed upon visits they were to make. They subdivided their board and mapped off the country where they would visit. Some of them went down into the Indian Territory particularly. A portion were to have gone up into Dakota; but owing to the sickness of Mr. Stuart, (who, after Mr. Welsh left the board, had that division in charge,) were unable to go. About that time Mr. Colyer came into the board, and he made an exploration in Alaska, of which he made a very interesting report. This was done not with the most rigid system in the world, but all with a view to the general purpose—first, of discovering what the Indian work was; what it ought to be; what evils there were in it; how they could be corrected; and then, by consultation with the Department in the performance of their duties, to correct them. As to the question, specifically, whether these gentlemen coöperated with the Department, I say they always showed the utmost zeal in their desire to do this work. Their reports which have been published show, I think, pretty fully what they did. I am speaking simply from memory.

Q. Did the Commissioner of Indian Affairs conduct the business of his Bureau under your supervision?—A. Certainly. The Bureau is a part of the Interior Department, and necessarily under the supervision of the Secretary.

Q. While you were there, during your term of office, did he consult you freely and

inform you fully in regard to Indian matters, and take your advice?—A. That was my supposition, of course. We were in frequent communication. General Parker secured, I think, very thoroughly the confidence of the President and myself with regard to his own earnest determination to carry on the business of the Bureau in accordance with those general principles that I have been referring to. His duties were naturally, necessarily, I may say, curtailed in some respects, his powers somewhat limited by this supervision of the commission, and the fear I had at the beginning was that it would lead to a natural antagonism between them. Therefore I noticed in that respect the indication of the general's feelings, and I must say that he seemed to be earnestly desirous of coöperating on this plan, and having it carried out fearlessly.

Q. Did you ever have any occasion during your administration to doubt his integrity and fidelity in the management of the affairs of the Bureau?—A. I have never had any suspicion of it in any way, nor any indication of it until I heard of this investigation.

Q. Am I to understand that you now have in that way?—A. No. I only speak of that as calling my attention to it. I have no opinion of this affair at all, and have never expressed any.

Q. Were his conversations with you regarding Indian matters such as to impress you that you were in possession of all the facts connected with the management of his Bureau?—A. That would be true to this extent: the head of the Department is not alone, of course, the head of the Bureau. The head of the Bureau must be held responsible for a faithful performance of the details of the work under such general directions as are given him. Now, I neither knew nor pretended to know the details of the work of the Indian Bureau; that would have been impossible without becoming actually the Commissioner. The Commissioner himself is responsible for the carrying out of the general directions which are given. When confidence is established in him then, of course, he is told to do under different circumstances the best he can, and to use his best judgment; and it would be only when he would bring up a matter for consultation that I would know of it. There might be a thousand things done of which the head of the Department could know nothing unless there was perfect good faith on the part of the head of the Department in bringing matters to him.

Q. And he might bring matters to your attention, and obtain your advice and direction, which would not enter into the records of your office?—A. If you mean by that to ask whether there was more or less of verbal consultation concerning which there was no record, it is true. It is necessarily true in every Department; and if nothing would be done except by written correspondence, of course but little would be done. There is a great deal constantly done about which there is verbal consultation only.

By Mr. SARGENT:

Q. Were you consulted with reference to a contract made on the 17th of June, 1870, prior to the passage of the appropriation bill, made with James W. Bosler for the supply of a large amount of beef, bacon, salt pork, flour, coffee, sugar, salt, soap, and tobacco, to be delivered on the Missouri River; a contract made without advertisement or competition?—A. In reference to any contract with Mr. Bosler, I can say I never heard of or saw the name of Bosler until this investigation commenced, and consequently I was not consulted in regard to any contract with him.

Q. Were you aware that a large amount of supplies were to be furnished under a contract of that kind, without any opportunity of consideration of the price by the Board of Indian Commissioners, or opportunity to inspect the articles?—A. I knew of no contract being made for any considerable amount of supplies at that time. I have endeavored to refresh my memory with regard to any intimation of purchases. My impression is that somewhere about that time General Parker stated as a fact that he was obliged as Indian Commissioner to make some temporary arrangements to get some supplies between the termination of the arrangement with the Commissary Department and his issuing of his advertisements. But there was never any consultation with regard to contracts further than such general statement as that.

Q. On the 10th of August, 1870, it is shown by the letter of Commissioner Parker in testimony, that he ordered Bosler at once to supply 1,500,000 more pounds of beef, net, to be distributed at the various agencies on the Missouri River, without making any contract therefor, or advertising so as to invite competition. Were you advised in that consultation, or were you consulted about it?—A. Not that I am aware of.

Q. Would you, where you knew it, allow very large amounts of supplies to be purchased for the Indian Department without advertising?—A. No, I should not. This thing, however, should probably be considered. In emergencies where there was danger of an outbreak, or where there was danger of starvation, I should regard it as within the power of the President to do what might be necessary to avoid an occurrence of that kind. As, for instance, I remember a case in which the ——— Indians were supplied for a considerable period by the Army, directly on the President's order, for the purpose of preventing destitution and starvation among them, where there was no other provision. And there has always been, as I have understood the action of the Indian Bureau, more or less of that kind of provision against temporary

emergencies. But the natural and the right theory, of course, would be that it is exceptional both in character and small in amount, and that would be the hypothesis. In this case I would say we had made our original arrangements with a special view to avoid the necessity of any purchases at all, if we could, in the first place. And then my understanding was that advertisements would be made just as soon as it was possible to do so after the law was passed.

Q. Do I understand you, in the case of a sudden emergency of that kind arising, that the President himself would order a supply through the Army to meet it?—A. In such a way, I should say, as his judgment would require, depending upon his being able to satisfy Congress that it was for the interests of the country; I simply want to say that a discretion of that kind had to be used occasionally, and I think is within the discretionary power of the President at a time like that to save what he considers a calamity.

Q. You would appeal to the President to exercise his discretion in such a case, rather than leave it to the Bureau officer?—A. That would be the exception. The President would, upon consultation, doubtless give his authority for doing what was necessary. But the discretionary power I regard as residing really there.

Q. After the passage of the appropriation bill on the 15th of July, 1870, the first contract entered into, (except the continuation of the Bosler contract, to which I have referred,) seems to be a contract with J. A. Morrow, on the 17th of September, 1870, for the supply of beef to the Indians on the Missouri River. An advertisement for that (in evidence) had been made, and the time for receiving proposals under that advertisement was afterward extended. Do you remember by whose order that extension was made?—A. Yes, sir; it was by mine.

Q. For what reason did you extend the order, and upon whose suggestion?—A. It is in connection with that that I remember about all I can remember of this matter. First, the law required the head of the Department to name the papers which should receive advertisements for different purposes. I called on General Parker to give me the names of the principal papers in the regions where he would like to have the advertisements made and the services performed, and the commercial centers. This he gave me. I then approved that list as the list in which he should publish when it was necessary he should advertise. This first advertisement was published, and it was in some way brought to my attention. It was within the province of the Commissioner of Indian Affairs to act upon it, and he had not submitted it to me, and there was no occasion that I know of that he should do so. It was the custom, and quite within his power, for him to determine upon the advertisement, and to publish it. It was also within the power of the head of the Department to interfere if he found a necessity of interference. When the advertisement was published, my impression is that a clerk in the Department called my attention to it, and I, in looking at it, came to the conclusion that the time was not sufficient for persons who might wish to make bids at Omaha or Sioux City to transmit bids from there to Washington after the advertisement should appear there. General Parker was then in New York, and one of the reasons why, perhaps, there was less of consultation at this time than at any other, was that he was in New York much of the period. As soon as the bill was passed making the appropriations, he went to New York with the commission to purchase the goods. I thereupon directed the chief clerk of the Bureau to telegraph the general there that it would be necessary to extend it; that I thought at least a week should be added to the time. He did so, and the time was extended in that way when the matter was brought to General Parker's attention. The general stated to me that he was, on the whole, confident that the parties who would naturally bid upon it would see it as it was, and that the short interval of time between its appearing in Omaha and in Washington was not a matter of material moment, although there was that appearance; for he had reason to believe that all the principal parties in the West, knowing that such things were to be done, were each watching for the advertisements, and that they would make their bids here, and all that country would be in fact represented. I remember I said it was not alone necessary that the thing should be in fact right, but it should be right on its face also. And, therefore, rather than have that appearance, I preferred to take the inconveniences that might arise from delay. I think at that time that Commissioner Parker's intimation to me was that there was inconvenience and perhaps loss in making delays, because it was important that the beef should be got, and the contracts given, as early as possible, to terminate all temporary arrangements that had been going forward.

Q. Do you know of any reason why the advertisement could not have been inserted a week or fortnight earlier?—A. None except that the general was in New York, busy with the purchases there, and having a good deal on his hands; I could see how, in the rush of work after the appropriation bill was passed, he might leave other matter unattended to for a time.

Q. But the appropriation bill passed on the 15th of July, and this transaction was in September?—A. The date of the contract is in September, but I think that must be some time after the bids were opened. I think so because the first week in September I went on my vacation, and the bids were opened before I left. General Parker was

gone through August; I think he left in July, immediately after the appropriation bill was passed.

Q. Was anybody left here to attend to the business of the Department?—A. Of course. The chief clerk is, by law, the acting Commissioner in the absence of the head of the Bureau, just as Judge Otto is Secretary in the absence of the Secretary.

Q. Was there anything to prevent his inserting it a week earlier?—A. Nothing that I know of, except that he seemed to hesitate to take the responsibility, and that was the case during the whole of Commissioner Parker's absence. I think it might be said that Mr. Cady was hesitating to take the responsibility, and consequently the general was attempting to do, by telegraph from New York, pretty much all the work.

Q. Do you know of any inconvenience that did arise from the extension of the time one week?—A. No; I do not. Nothing came to my knowledge.

Q. Was it brought to your knowledge that the bidders in the West were complaining of the limited time that that advertisement was published there—some three or four days?—A. I cannot recollect that it was. My impression would be that some one in the Department called my attention to it, and that it was there I gave the direction. I do not think it could have come from the West, because my calculation was, when I gave the order, that the advertisement was only just appearing at the West.

Q. If there were bidders at Omaha or Chicago who knew that the Department was going to issue proposals, and consequently would be ready to bid, would they be likely to send in their bids until they could see the advertisement and knew the terms which the Department proposed?—A. That was my theory, and on that I ordered it extended. But then the suggestion made to me was, that everybody was on the *qui vive*, or supposed to be.

Q. But if the parties in Omaha or Chicago did not have time, after the advertisement appeared there, to get their bids here, what advantage was it for them to be on the *qui vive* to bid?—A. You do not understand me. The statement I made a little while ago shows that the hypothesis was, that these western bidders were either represented in the East or were East themselves; that they knew at this season the contracts were to be let, and they had been watching your appropriation bills, and knew as well as those in the Department what was going on, and that they were here. Certainly, persons at the West would get no advantage unless they had time enough to send in their bids; and that was the theory on which I made the extension.

Q. Then I understand you that any one in the West who wanted to bid, who was not here in Washington, would not have had the opportunity?—A. That was my idea of it.

Q. Do you know, as a fact, that the successful bidder, Morrow, was not in Washington, but was in Omaha at the time?—A. I do not. I do not remember his name. I do not know where any of them were, except that I knew one or two were from Omaha, or somewhere out there.

Q. Without the extension which you gave, would it, or not, have given an advantage to persons who might be here upon the ground, to the exclusion of others?—A. I thought it would, and upon that hypothesis I ordered the extension. General Parker thought it would not, and that, everything considered, it was better to make the time short.

By Mr. WELSH:

Q. I understood you to say, in answer to a question of the chairman of the committee, that you had not been consulted, and had no actual knowledge of the special contract of the 17th of June with Bosler.—A. Yes, sir; I never heard of Bosler's name until since this investigation commenced.

Q. In other exigencies during your administration what course was pursued to feed Indians?—A. During the whole of the preceding year we had been getting our supplies from the Commissary Department, so that this question could not arise. The commissary arrangement terminated with the close of the fiscal year. If I remember right, this period, between, probably, the 30th of June and the time when these contracts were let by advertisement, was the only period (within that time) when we called upon anybody else except the War Department for supplies.

Q. I wish to inquire whether, before the passage of the law, you would, had you known it, warranted a contract to the extent of $362,000?—A. Well, that is a matter of judgment; I should want to find the circumstances peculiar, full of necessity, before I would make any contract that was not strictly warranted by the letter of the law. If an Indian tribe was, in my judgment, in danger of immediate outbreak or in danger of starvation, I should use every possible means to prevent it, and if I were confident that there was simply a delay in passing the appropriation bill, and had, from my acquaintance with the committee, full knowledge of the almost certain probability of its passing, I should, in a case of great emergency, at the head of the Department, feel like acting on that probability, but I should want to be very certain about it. But it is a case of discretion, where I would not like to draw very closely the line of what I would do or what I would not do, except that I should want to be very certain that I was acting in accordance with the necessities of the case, and of the almost certain action of Congress in regard to it.

Q. Did you grant that power to any of those under you?—A. That power never came up for discussion in any form that I know of, as such; it was one of those instances of discretion which was never, I think, distinctly discussed. The Indian Bureau has always been in the habit of making purchases, as I have understood it, when it was understood that the appropriation bill was prepared by the committee. They have made, if not direct contracts, they have made conditional contracts at different times, with the understanding that if the appropriation bill passed they could then call upon parties to act, in order to get them out speedily. That I remember having brought to my attention as having been the long-time practice among them, from the fact that when we began in March, 1869, there were arrangements already made for goods being purchased. I interfered and stopped some of these; I canceled contracts, and there was some trouble about it at the time, but it was then shown to me, and I think has been indisputably the fact, that, in order to meet the times of transportation on the river and to get goods out in time, there has been embarrassment constantly growing out of the fact of the lateness of the time of passing appropriations, and it has become the custom to make that kind of provisional arrangement that if the bill passed they would be required to furnish certain supplies; and if not, they would not. Now, that kind of discretion has been exercised in the Bureau. We endeavored to put an end to it; we endeavored to bring everything down to limits, and the formation of this board of commissioners was with a view to that—to get everything under that supervision and control so that there might be no possible question, and to get rid of these difficulties. And consequently, while I say that in a case of extreme necessity the President or the head of a Department can exercise a discretion, yet it should be done with great caution. The gentlemen of this committee will all remember that contracts of that kind were made by General Harney, and that there was great debate whether they should be paid or not. They were finally paid, on the ground that it was a matter of public necessity and the arrangement made in good faith.

By General CHIPMAN:

Q. You do not intend to say, in giving these opinions, that General Parker abused his power as an officer, or his discretionary authority, in making the provision he did, acting under the circumstances that he did, in 1870?—A. I do not express any opinion about it, because I do not know the facts. I have answered a hypothetical case put to me by Mr. Welsh. The fact is, I never learned anything about this contract specifically, until I learned it through this investigation.

Q. Did not you know there was an exigency upon the Indian Department as represented to you by the Commissioner?—A. There was a statement on his part of the necessity existing, which he was meeting in some form for the temporary needs of those Indians. But as to its extent or kind, I knew nothing whatever.

Q. That was left to his discretion?—A. It was, as I have stated. The fact was stated as such, and he was to act according to his best judgment. No specific case was brought up for my action.

By Mr. SARGENT:

Q. I understood you to say that a practice had grown up in the Department through a series of years, by which, in advance of the passage of the appropriation bill, advertisements would be issued, on even provisional contracts entered into, with the understanding that if the appropriation was not made, the contract should be void, and the articles not delivered or paid for. Do you know of any practice by which, in advance of the passage of the appropriation bill, it was agreed that the articles should be delivered or paid for on the receipts of the respective agents—a contract making no reference to the prospective passage of the appropriation bill, and in the entire absence of one?—A. No, sir. I do not know of any such case.

By General CHIPMAN:

Q. Do you say that the Indian Bureau has never made purchases without advertising; that the head of the Bureau has never exercised the discretion of making purchases to meet emergencies according to the view that he might take of them?—A. That is not what I have said.

Q. I do not understand you to say, do I, that the only form of contract which the Commissioner makes to meet these emergencies is a contract to be void in case an appropriation act is not passed?—A. We are now speaking of contracts made where there is no appropriation bill passed. Where there are appropriations made for trifling amounts, the agents have often been authorized to make specific purchases. As when an agent is not in communication with the outside world, that is an emergency. I have supposed the power existed and the office has exercised it. My familiarity with the office is not great enough to say how far they have gone. But I was speaking of large contracts for large amounts of supplies made without the usual forms.

Q. Would there be any difference in regard to the duty of the Commissioner to provide for the emergency in the case of the supply for a hundred Indians, or ten or fifteen

thousand; would not his action be the same, except proportionately large in one instance over the other? The quantity of supplies he would have to furnish under an emergency would not affect the question if he had to act, would it?—A. Of course it would only affect the caution with which he would proceed. Every man exercises more caution in great matters than in small ones, and persons often exercise a discretion in small matters that they might not in great ones. The question is simply what is best to do in the emergency.

Q. Then the Commissioner would have to determine that question for himself, or no one could in that matter?—A. Whoever the responsibility is upon must determine it for himself. In the larger matters of the Bureau we expect, of course, more consultation with the head of the Department or with the President than in little ones. If a matter should arise wherein the action of the Bureau might terminate in a war or not, although the responsibility might be with the Commissioner, yet we would expect a greater amount of caution and more consultation than in a less important measure.

Q. Did not the Commissioner consult with you in regard to the necessity of supplying these Indians along the Missouri River in June?—A. The Commissioner spoke, as I have stated, of his being under the necessity of making temporary arrangements for the Indians there; but I never knew anything with regard to any specific arrangement as to how it was to be done, or to what extent. The impression left upon my mind was that here was a temporary difficulty that he was contending with and trying to get along with until the appropriation bill was passed; but the specific means of meeting it was not presented to us.

By Mr. BECK:

Q. When such emergencies arose as required the action of the President to meet them, of which you have heretofore spoken, how did he usually meet them, by calling upon the Army or the Indian Department to meet them—for supplies, I mean?—A. Always, before the close of the last fiscal year, he had called upon the Army, because there had been a specific arrangement made with the Army that it should aid in supplying the Bureau. At this time, my impression is that General Parker's embarrassment arose out of the fact that the Commissary Department of the Army had notified him that they could no longer continue the arrangement. That was the basis of his trouble.

Q. Did the President, so far as you know, meet these difficulties through the Army?—A. Yes, sir. We had had no case before us in which there was any difficulty before. We had always called on the Army, and got the supplies from them. But if the Army were to be left out of the account, of course then the arrangement would have to be made upon another hypothesis, and that was the supposition, I understand, that existed—that the Army was to be left out of the case; that it declined to make the supplies.

By Mr. SARGENT:

Q. Was not the Commissary Department subject to the orders of the President?

A. Yes, sir; but when the President and Secretary of War had consulted, and the notice came from the Department that they must discontinue that arrangement at the end of the year, that *was* the President's action.

Q. But we are now speaking of an emergency where it required a special power coupled with an appeal to Congress.

A. Of course, in an extraordinary case, the President would be just as much at liberty to make an order in the one instance as in the other; and if he thought it was necessary for the Government service that the Army should make the supplies, he would issue such an order, undoubtedly.

EXHIBIT A.—*Executive Order.*

EXECUTIVE MANSION, *Washington, D. C., June* 3, 1869.

A commission of citizens having been appointed, under the authority of law, to coöperate with the administrative Departments in the management of Indian affairs—consisting of William Welsh, of Philadelphia; John V. Farwell, Chicago; George H. Stuart, Philadelphia; Robert Campbell, St. Louis; W. E. Dodge, New York; E. S. Tobey, Boston; Felix R. Brunot, Pittsburg; Nathan Bishop, New York; and Henry S. Lane, Indiana—the following regulations will, till further directions, control the action of said commission and of the Bureau of Indian Affairs in matters coming under their joint supervision:

1. The commission will make its own organization, and employ its own clerical assistants, keeping its "necessary expenses of transportation, subsistence, and clerk-hire, when actually engaged in said service," within the amount appropriated therefor by Congress.

2. The commission shall be furnished with full opportunity to inspect the records of the Indian Office, and to obtain full information as to the conduct of all parts of the affairs thereof.

3. They shall have full power to inspect, in person or by sub-committee, the various Indian superintendencies and agencies in the Indian country; to be present at payment of annuities, at consultations or councils with the Indians; and, when on the ground, to advise superintendent and agents in the performance of their duties.

4. They are authorized to be present, in person or by sub-committee, at purchases of goods for Indian purposes, and inspect said purchases, advising with the Commissioner of Indian Affairs in regard thereto.

5. Whenever they shall deem it necessary or advisable that instructions of superintendents or agents be changed or modified, they will communicate such advice, through the office of the Commissioner of Indian Affairs, to the Secretary of the Interior; and in like manner their advice as to changes in modes of purchasing goods, or conducting the affairs of the Indian Bureau proper. Complaints against superintendents or agents, or other officers, will, in the same manner, be forwarded to the Indian Bureau or Department of the Interior for action.

6. The commission will, at their board meetings, determine upon the recommendations to be made as to the plans of civilizing or dealing with the Indians, and submit the same for action in the manner above indicated; and all plans involving the expenditure of public money will be acted upon by the Executive or the Secretary of the Interior before expenditure is made under the same.

7. The usual modes of accounting with the Treasury cannot be changed; and all expenditures, therefore, must be subject to the approvals now required by law and by the regulations of the Treasury Department, and all vouchers must conform to the same laws and requirements, and pass through the ordinary channels.

8. All the officers of the Government connected with the Indian service are enjoined to afford every facility and opportunity to said commission and their sub-committees in the performance of their duties, and to give the most respectful heed to their advice within the limits of such officers' positive instructions from their superiors; to allow such commissioners full access to their records and accounts; and to coöperate with them in the most earnest manner, to the extent of their proper powers, in the general work of civilizing the Indians, protecting them in their legal rights, and stimulating them to become industrious citizens in permanent homes, instead of following a roving and savage life.

9. The commission will keep such records or minutes of their proceedings as may be necessary to afford evidence of their action, and will provide for the manner in which their communications with, and advice to, the Government shall be made and authenticated.

U. S. GRANT.

WASHINGTON, D. C., *February* 1, 1871.

CHARLES D. WOOLWORTH sworn and examined.

By Mr. CHIPMAN:

Question. Where do you reside?—Answer. At Sioux City, Iowa.

Q. How long have you resided there?—A. Three years.

Q. What is your occupation?—A. I am secretary of the Northwest Transportation Company.

Q. How long have you been engaged in transportation on the Missouri River?—A. I have been engaged with the present company three years. I was engaged two years before in transportation from St. Louis up to Montana.

Q. How extensively have you been engaged in this business?—A. The first year, at Sioux City, we employed eleven boats. Last year we employed about seven boats most of the time during the season; sometimes more, and sometimes not more than five.

Q. What is the nature of your business, Government and private also?—A. Our business last year has been almost entirely Government. The year before it was freights for Montana merchants.

Q. With what Departments have you had contracts?—A. With the Quartermaster, War, and Indian Departments.

Q. Did you enter into a contract with the Indian Department in September, 1870?—A. Yes, sir.

Q. When, where, and with whom did you arrange the terms of that contract?—A. It was in the month of August, in New York, with General Parker.

Q. Do you remember what time in August?—A. I cannot tell exactly. I think in the middle or along toward the latter part. I met him when he was buying annuity goods.

Q. Did you talk over the terms of the contract and arrange the freights with him at that time?—A. I gave General Parker my idea of what the rates would be, and I intended when I went to New York—when I saw him first—to try to close a contract then, supposing it was for the annuity goods, not knowing that it was a contract for as much freight, as I afterward ascertained. I then declined to close a contract with

him until I could go home. I was receiving telegrams from home with regard to the river, and cautioning me about making contracts for any amount of freight.

Q. In talking over the matter with him, were the suggestions you made in regard to freights and the rates as high as those that entered into the contract?—A. They were fully as high, and I think in some cases higher.

Q. What promise did you make in regard to forwarding freight that should reach Sioux City before the contract was finally executed?—A. After I declined to close the contract at New York at that time, General Parker told me that some annuity goods were there, about ready to ship, that he wanted to go right away. I told him I would go home, and send those goods forward if they arrived while I was there, at the rate I had stated in New York, or at whatever the contract was closed for.

Q. When did you finally execute the contract?—A. It was early in September. I intended or expected to either meet him when he came West or to send to Washington.

Q. Where was this contract executed?—A. The contract was not signed on his part until the latter part of September. I sent it to Chicago by the president of our company, Captain Lawrence, after I heard that General Parker was coming to Chicago, I think. I had an impression that he was coming to Sioux City, and held it there some time until I afterward heard that he was to be in Chicago.

Q. It was signed by you early in September, and sent on?—A. Yes, sir; I wrote the contract in the early part of September, intending to send it to him, but afterward found he was coming West, and so I retained it.

Q. It was executed by you in duplicate and sent on?—A. Yes, sir.

Q. Have you a copy of the original contract?—A. Yes, sir.

Q. Do you remember whether the blank date was filled up by yourself or left blank to be filled by the Commissioner?—A. It was left blank, and filled by him when he signed it. At least it was filled when it came back.

Q. Will you produce your copy?—A. I will. This is it.

[Mr. Chipman offered the retained copy of the contractor, showing that it is signed by E. S. Parker with dark ink, and the date filled in with the same kind of ink, and the body of the instrument written in violet ink.]

Q. Was your company interested in any Government contract for carrying freights this last summer?—A. Yes, sir.

Q. What one?—A. We own an assignment of a contract in the name of George K. Hazlett, for the transportation of Government supplies from Chicago to points on the Missouri River, on through bills of lading to points above Sioux City.

Q. Examine the provision of that contract, and state whether you would have been obliged under that to carry freight for the Indian Department, (those goods and supplies which your company carried,) and if not, why not?—A. This contract is only for goods shipped by the Quartermaster's Department from Chicago, on through bills of lading. It has nothing to do with this freight. That contract had nothing to do with this freight.

[Witness read the provisions of the contract referred to.]

Q. Were you interested in what is known as the Hiram K. Hazlett contract?—A. That was another contract. The Quartermaster's Department had two contracts, one from Chicago, and one from St. Louis. We were not directly interested in that contract of Hiram K. Hazlett.

Q. In what way were you connected with it?—A. We made an arrangement with Hiram K. Hazlett to carry freight for him under that contract, at the contract rates, less fifteen per cent. commission.

Q. Did you carry freights under that contract in that manner?—A. Yes, sir.

Q. Are you familiar with its terms?—A. Yes, sir.

[A letter from the Quartermaster General, dated January 31, 1871, addressed to the chairman of the committee, giving a list of distances from Sioux City to different points on the Missouri River, was offered in evidence, and is appended to this testimony, marked Exhibit A.]

Q. Under your contract with Commissioner Parker, to what date were you bound to carry freights?—A. It embraced freights up to the 1st of January, 1871.

Q. Was the quartermaster's contract with Hiram K. Hazlett more advantageous to the contractors than the one made by Commissioner Parker with you?—A. I consider it so.

Q. Why?—A. Under the quartermaster's contract large rates—full rates—were paid for way freight. There were soldiers, and the transportation of wagons, horses, and mules, and they would pay a much larger rate than common freight; and there were very often down-stream freights, by which the boats could double their receipts. The freight under that contract—the bulk of it—was shipped during the best months of navigation.

Q. How was it with Commissioner Parker's contract in that respect?—A. The freight under that contract was shipped late in the fall.

Q. And was liable to go to what month?—A. The expiration of the contract was the 1st of January. There were no down-stream freights under that contract; nothing but up-stream freights; no way freights included; nothing but up-stream freights.

Q. Under the Hiram K. Hazlett contract, do you remember any instances where you started on a trip with freight that would not be a paying one, and, if so, what was the result?—A. I remember one instance of sending the steamboat Bertha up the river with a less receipt than would pay her expenses to the point named. But under this contract, she might have troops to carry from one point to another, as well as supplies and stores, and bring troops down. And it was a frequent occurrence for boats going up to change supplies from one post to another. That is what those rates were provided for.

[Witness shown a tabular statement of the rates of freight under the H. K. Hazlett contract, which is appended to this testimony, marked Exhibit B.]

Q. Am I to understand from this tabular statement that the rates shown for way freights are the amounts paid for the distances as shown in the same table?—A. Yes, sir.

Q. Was or not this part of the contract favorable or otherwise to the contractor?—A. The way freights, so far as my knowledge has been, are always taken into account in making up the other rate to the principal points; that the way freights are much larger, and go to make up a better rate on the other freight; that it is an advantage on a contract; soldiers are a very large advantage on a contract.

Q. What is the advantage of having soldiers, and cattle, and things movable?—A. The advantage in having soldiers is that you can load a boat with about all the freight you want to put on her, putting the freight in the hold, and then putting two hundred troops aboard of her is no disadvantage at all. If you run on a bar the soldiers can get off and walk around, and they are of great assistance on the boat if they are under discipline, and the receipts from the transportation of soldiers are always large.

Q. In making bids for transportation with the Quartermaster's Department, have you heretofore had reference to representations made by Government officers that the bulk of freights would go up in the early months?—A. We did this year—for 1870.

Q. In 1870 that was taken into consideration?—A. Yes, sir. We lost before for that reason, and before we bid on these contracts we had an interview with General Rucker, and were assured that this year he would not burden us in that way; that the freight should be hurried off, and come in under those contracts, on the early months.

Q. How does that affect your rates, as shown in this Hazlett contract, for the late months; are they as high as they would be otherwise?—A. The estimate on that contract is made by adding the rates of each month together and dividing it by the number of months for which it is bid for, taking the average. When we bid, we were assured there would be little or no October freights; hence we did not put the rates high, because we were afraid of raising the average on account of competition.

Q. What am I to understand from you in regard to those October freights, with reference to their being put at a higher price?—A. I would say that a man bidding on that contract, understanding the business, if he had no assurance that he would have little or no October freights, he would make it higher.

Q. If he had a large bulk in October, what would be the result?—A. In ordinary seasons, he would lose a good deal of money. We had as good a rate as that before; but last year I do not think any money would have been lost under that contract, perhaps—that is, 1870.

Q. Did you ever make a contract with the Quartermaster's Department as late as September in any other year than 1870?—A. Yes, sir, we have had special contracts each year we have been there with the Quartermaster's Department.

Q. Did you make any contract in 1868 with reference to freights to Fort Rice?—A. We made a contract in 1868 with Captain Rodgers, quartermaster at Sioux City, for a late trip to Fort Rice. My impression is that the boat left about the 5th of Ootober.

Q. How near is that to Grand River?—A. Grand River is ten miles below Fort Rice. We got eight cents for that.

Q. Did you make a contract in 1869?—A. Yes, sir; with Captain James Gillis' quartermaster at Sioux City. We made that contract in September—I think about the middle of September—to Fort Buford. We got 8 cents for that.

Q. Where is Fort Buford?—A. It is above Berthold—250 miles above.

Q. Did you carry any private freights at that time?—A. Yes, sir.

Q. What freights did you get?—A. Ten cents.

Q. Was that contract let upon proposals?—A. It was.

Q. Do you remember any instances of starting boats as late as in August, 1869?—A. Yes, sir. We started two boats to Fort Benton in August.

Q. How loaded?—A. Loaded light with Government freight, under a contract we had with the Quartermaster General.

Q. How far did those boats go up?—A. To the mouth of Milk River.

Q. Where is that?—A. I think about four hundred miles above Fort Buford.

Q. What time did they reach there?—A. About the 1st of September.

Q. What was the result of that trip?—A. The water was so low that the boats could not go any further than the mouth of Milk River. There they put their freight ashore, and the captain divided the crews, and left part of them there with the freight, and sent the boats home.

Q. How were they at last delivered?—A. The captain sent a messenger to Fort Benton and got an ox train of a hundred wagons, and hauled the freight up to the fort from there.

Q. What was the result of that operation financially?—A. The company lost $20,000 on the two trips.

Q. Was there, in this Commissioner Parker contract of 1870, any bond issued by you?—A. Yes, sir.

Q. What are generally some of the risks of navigation on that river?—A. We consider that above Sioux City, during the good months, there is very little risk. During the later months boats are detained very seriously by winds.

Q. How do they operate?—A. We have had instances of boats lying at the bank three days, being unable to get out of a bend on account of the wind holding them there. This occurs early in the spring and late in the fall. During the summer there is no wind. We estimate for one-half more time on account of these winds. Then again the water gets very low. The water begins to go down about the 1st of September, so that boats drawing three feet will have trouble. With one of our boats one hundred tons of freight will put a boat three feet, easy.

Q. How about ice?—A. For a boat going as far as Forts Rice or Stevenson, the risk of being kept in the ice is very great. Three years ago there were five steamboats frozen in the ice. They were scattered from Fort Randall to Grand River.

Q. At what time?—A. Year before last they were caught there, I think, about the first of November, just according to their location.

Q. What amount of insurance do you have to pay on boats?—A. The rate is 25 per cent. risk on hulls. We insured ourselves last year.

Q. Did you lose a boat during the execution of the Parker contract?—A. Yes, sir.

Q. What was her value?—A. She was valued at $10,000, but cost more.

Q. How did you deliver what freight you saved?—A. We sent another boat to her. The crew saved about half her cargo—saved her deck cargo, put it ashore, and we sent up another boat, which delivered it.

Q. At what cost?—A. It cost us $1,000, I should estimate, over the receipts.

Q. What time did the river close in 1868-'69, practically?—A. At Sioux City it closed on the 17th November.

Q. Do you mean by that it was frozen over?—A. Yes, sir; ice stopped running in the river.

Q. At what time did navigation close there practically?—A. That depends upon what point you wanted to send to.

Q. Say Cheyenne, in 1868-'69?—A. I should say the 10th of October.

Q. You think it would not be safe, at ordinary seasons, to undertake to go to Cheyenne after the 10th or 15th of October?—A. We sent a boat that year to Fort Rice that got back; I think she left about the 5th of October. I should say from the 10th to the 15th of October, in ordinary seasons, navigation closes.

Q. How did 1870 compare with 1868-'69?—A. It was an entirely different season; we had a rise on the river the 1st of October. Such a thing was never known there before; we had a very open, late fall. There were thirty or forty days more navigation than the year before.

Q. What would have been the result in carrying out this Commissioner Parker contract if the ordinary season had happened instead of this favorable one, as it turned out to be?—A. If we had the freights get to us as late as we did this year, and had the same season we had in 1868-'69, we could not have delivered them.

Q. Could the Government have obliged the contractor to have taken this freight that you carried for Commissioner Parker, under the H. K. Hazlett contract that we have already referred to?—A. No, sir.

Q. Why not?—A. Because under that contract the contractor has ten days' notice, and the contract expired the 31st of October. There was no contract existing after then.

Q. Then you deduct ten days from the 31st for notice that the contractor was entitled to?—A. Yes, sir.

Q. If you were contracting to-day for freights up the Missouri River for the year 1871, and having the same amount of freight to carry under the Hazlett contract with the Quartermaster General, from St. Louis, and one similar to the one executed with Commissioner Parker, which would you regard as the most profitable, and which would you rather take?—A. I should like to enter into a contract like that of H. K. Hazlett's, but I would not enter into a contract like the one with Commissioner Parker to-day, for the same amount of freights, and take them the same season of the year.

Q. You would not enter into such a contract to-day?—A. No, sir. I refused to do it at New York until I was satisfied we would probably have a better season than the year before.

Q. I notice in one of the vouchers some of the freights were shipped prior to the execution of the contract, that is, prior to the 26th of September.—A. I have explained

that. I arranged with Commissioner Parker that I would send those freights from Sioux City immediately on their arrival.

Q. I notice in one of these vouchers also some freights for a small amount, shipped in April and May, 1870, that were paid for on vouchers, in connection with this contract. Will you explain about that freight?—A. I contracted for that freight.

Q. With whom?—A. With Major Clifford Culver, the Indian agent. He was at Sioux City, on his way to the Indian agency. He had no money to pay for freights, and I was either to collect from the Department the rate we had the year before, or, if we had a new contract, to put it in at that.

Q. Were the rates the year before more than you charged in this voucher?—A. Yes, sir. I made the rates for horses, mentioned in those items, from the Hiram K. Hazlett contract.

Q. There are in evidence certified drafts or Treasury warrants, issued in payment of these transportation services, payable to your order, indorsed by you to J. W. Bosler, and by him to Jay Cooke & Co. Will you explain that transaction, how Bosler came to have anything to do with it?—A. Mr. Bosler was at Sioux City superintending the shipment of his flour for the Indian Department, for which he had a contract. He found that to collect the pay for his flour he had to present the agent's receipts on the bills of lading. He wanted I should appoint some one in the East to whom I should send these bills of lading, and he could collect for the flour the same time I did the freight. I suggested that he should take the bills of lading on and collect them, and I would send him my receipted bills of lading, provided he would collect them for me without expense, and deposit the money. I gave him written authority to write my name across the drafts; and Bosler was to be there and collect his claim for flour, and at the some time facilitate the collection of my freight.

Q. He made the collection for you in that way?—A. Yes, sir.

Q. Had he any interest, direct or indirect, in this transportation contract?—A. Not at all.

Q. Had he any interest in these drafts that he collected for you?—A. No, sir. He asked me, the first draft he collected, to let the money lie to his credit, if I could, for twenty days, until he could get some money for his flour. I think he had the use of the money for fifteen or twenty days. I then telegraphed him that I must have the money, and he telegraphed me that he had deposited it in New York. I considered the use of the money was equivalent to the trouble he had in collecting and attending to my business.

Q. What is Bosler's standing in your community for business integrity and character?—A. I guess as good as anybody they could find. He has the reputation of being perfectly reliable, and a man of means.

Q. Had Commissioner Parker any pecuniary interest, direct or indirect, in your transportation contract with him?—A. He had none.

Q. Did any one have outside of your company?—A. Not outside of the stockholders of our company.

By Mr. SARGENT:

Q. You have examined this contract of George K. Hazlett?—A. Yes, sir.

Q. Have you an interest in it?—A. Yes, sir.

Q. How did you acquire an interest in it?—A. The contract was assigned to our company by Hazlett.

Q. For what consideration?—A. The sum of $1.

Q. Your company has carried out that contract?—A. Yes, sir; our company gave the bond for Hazlett, the stockholders of our company going on the bond.

Q. I suppose, in fact, Hazlett bid for your company?—A. Yes, sir.

Q. I find attached to your contract no such schedule as the one attached to the Hiram K. Hazlett contract.—A. We had no freight under that contract except that freight started from Chicago. We could not claim a pound of freight at Sioux City or above Sioux City, under that contract. The prices under this contract were as low, or even lower, than those under the Hiram K. Hazlett contract. On the average they are at least as low. On this contract the rates are from Chicago through. I mean to say that from Sioux City to the Yankton Agency, the prices under this contract are at least as low as from Sioux City under that contract of Hiram K. Hazlett's.

Q. What was the rate from Chicago to Sioux City by rail?—A. We paid 62½ cents.

Q. Then, taking off the difference, is not the average about the same for transportation to the different agencies under the two contracts?—A. Yes, sir; about the same.

Q. Under this contract there is no provision for those way freights you refer to?—A. No, sir.

Q. Then the criticism you make on the Hiram K. Hazlett contract does not apply to the George K. Hazlett contract?—A. No, sir; that contract does not have the advantages of the way freight.

Q. And yet you have the assignment of this contract, and the carrying it out?—A. Yes, sir.

Q. You say that Indian goods could not be shipped under the George K. Hazlett contract because they were required to be carried through on through bills of lading?—A. Yes, sir; that contract applies to freight on through bills of lading only.

Q. Could you not make a contract to carry them?—A. Yes; up to the time the contract expires.

Q. But there is no difficulty in the way, under the H. K. Hazlett contract, of carrying Indian goods if it was for the advantage of the Government to carry them for higher rates?—A. My explanation is, that in my answer before I said that these Indian goods could not be carried under that contract, because they were not ready at the time this contract expired.

Q. What Indian goods do you refer to?—A. Flour, principally.

Q. What month was it shipped in?—A. Shipped in the latter days of September, in October, and the first days of November.

Q. How about all the freight that was sent before you made any written contract, commencing in June and extending down to the 26th of September?—A. We shipped a lot of goods to Berthold, but nothing until in September.

Q. How much flour before the 26th?—A. I should think two or three cargoes.

Q. How much was shipped in November?—A. I could not tell positively.

Q. As much as there was in September?—A. Yes, sir.

Q. More?—A. I should think about the same.

Q. How much was shipped in December?—A. None.

Q. Who was the contractor to furnish that flour that was shipped in November, or other goods?—A. Mr. Bosler.

Q. Do you know of any reason why that flour could not have been sent up in August or September?—A. No, sir. We sent the flour as fast as it was furnished to us.

Q. How much did you send in October?—A. I think we sent 800 or 1,000 tons.

Q. Was the great proportion of it after the signing of the contract?—A. Yes, sir. I should think three-quarters of it.

Q. Was the most of that freight flour, and articles of that character?—A. Yes, sir; flour and bacon.

Q. Do you know of any reason why those goods could not have been earlier on the ground to be shipped when freights were reasonable?—A. I have no means of knowing. I do not know when they were bought.

By Mr. WELSH:

Q. Did the company authorize you to empower Mr. Bosler to sign in your name as secretary of that company?—A. The president of the company and myself consulted about it, and we both agreed to it.

Q. Are you not aware that Indian goods could have been shipped on either of those contracts?—A. Any Indian goods delivered to us at Chicago, I suppose, we should have been obliged to carry under that contract.

Q. Then what is your understanding of these contracts as to time? When Indian goods are delivered to you on the first day of September at Chicago, you date it from their receipt at Chicago; and when delivered to you the first day of September at Sioux City, you date it at Sioux City?—A. Yes, sir.

Q. Then the date is from the time these goods are delivered to you as being ready for shipment?—A. Yes, sir; but they have got to give us ten days' notice. They cannot come to us with goods without notice.

Q. But that ten days' notice could have been given ten days before the time of receiving the goods?—A. Yes, sir.

Q. How many offers did your company make in their own name, or their clerk's, or other people, for that Chicago contract?—A. They made two.

Q. Two only?—A. Yes, sir.

Q. One in their own name and the other in Hazlett's name?—A. Yes, sir.

Q. Do you know what the difference was between the offer in their own name and the offer in the name of Hazlett, who, I understand, was a clerk?—A. I do not know.

Q. What are called "straw bids?" Did you ever hear the term?—A. Yes; it is rather familiar.

Q. What does it mean exactly?—A. Well, I should say it means a bid a man don't intend to fill, in order to sell out.

Q. Did they not give named securities each time?—A. Yes, sir.

Q. In this bid that H. K. Hazlett gave, I find these names; will you tell me who they are? H. E. Cutting.—A. I do not know him.

Q. Do you know W. J. Koontz?—A. Yes, sir; he is a relative of Mr. Hazlett.

Q. Is he a clerk of his?—A. No; he is a steamboat man.

Q. C. M. Seaman; who is he?—A. I think he is a steamboat man in St. Louis.

Q. Joab Lawrence is your president?—A. Yes, sir.

Q. Barton Able; who is he?—A. He is a very extensive steamboat man in St. Louis, or has been in years before.

Q. When you were in New York, did you see De Witt Clinton Wheeler?—A. I did.

Q. Did he ever speak to you about this contract touching the transportation of Indian goods up the Missouri River?—A. I presume he did.

Q. Has Bosler an interest in his brother's house in Sioux City? Is he partner or capitalist?—A. I do not know any brother of his in Sioux City. He has a brother living at Lamars, near Sioux City. He is a stock-raiser out there.

Q. You do not know whether he had any interest?—A. I do not know anything about their matters.

Q. Had you any talk with General Parker, ever, about carrying Indian goods under these contracts?—A. No, sir.

Q. When you made a bargain with him for specific work, did you notify him that there was already a contract for carrying Indian goods?—A. No, sir.

Q. The rate you speak of, 62½ cents, did that cover dry goods from Chicago to Sioux City?—A. Our rate was a round rate, for rough goods and all. The contract was originally 75 cents, but was reduced to 62½ cents.

Q. Have you any notice here or there as to the time these goods were ready for shipment in Sioux City?—A. No, sir.

By Mr. CHIPMAN:

Q. State whether your answers as to the amounts of freights and time of shipment are from memory, and whether the vouchers will show the exact facts.—A. My statements are entirely from memory. I never have made any estimate with regard to them. I know that the bulk of our work was in October. We delivered a good deal of freight in November.

EXHIBIT A.

QUARTERMASTER GENERAL'S OFFICE,
Washington, D. C., January 31, 1871.

SIR: As requested by General Parker, Commissioner of Indian Affairs, per General N. P. Chipman, I respectfully submit herewith a list of distances from Sioux City to different posts on the Missouri River, used in the examination and settlement of officers' accounts at this office, viz:

	Miles.
Sioux City to Yankton agency	142
Fort Randall	246
Whetstone agency	271
Brulé agency	391
Crow Creek agency	402
Fort Sully	481
Cheyenne agency	546
Grand River agency	661
Fort Rice agency	771
Stevenson	935
Berthold	946
Buford	1,201

Very respectfully, your obedient servant,

M. C. MEIGS,
Quartermaster General, Brevet Major General U. S. Army.

Hon. A. A. SARGENT,
Chairman Sub-Committee of Appropriations,
House of Representatives, Washington, D. C.

EXHIBIT B.

October freights, per hundred pounds, under Hiram K. Hazlett's contract with the Quartermaster General, computed from contract for March 20 *to October* 31, 1870, *inclusive.*

Sioux City to Yankton agency	$2 25
Fort Randall	2 25
Whetstone agency	3 00
Lower Brulé agency	3 30
Crow Creek agency	3 75
Fort Sully	3 90
Cheyenne agency	4 80
Grand River agency	4 80
Fort Stevenson	6 00
Fort Buford	6 75

Fort Berthold is between Stevenson and Buford. Quartermaster General's contract had no rate to Fort Berthold. The rate would be governed by rate to next point above Berthold, which would be Buford.

Rate of freights, per hundred pounds, under contract of Northwestern Transportation Company with Commissioner Parker, dated September 26, 1870, for September, October, November, and December, 1870.

Sioux City to	Yankton agency	$2 25
	Whetstone agency	3 25
	Lower Brulé agency	4 25
	Crow Creek agency	4 25
	Cheyenne agency	5 25
	Grand River agency	6 25
	Fort Berthold	7 50

Transportation contract of March 25, 1868, from April 1 to October 1, 1868, between Northwestern Transportation Company and N. G. Taylor, Commissioner of Indian Affairs; rates per hundred pounds.

New York City to	Yankton Agency	$7 72
	Whetstone agency	7 72
	Brulé agency	7 72
	Crow Creek agency	7 72
	Cheyenne agency	8 72
	Grand River agency	8 72
	Berthold agency	10 72

The average railroad rates from New York to Sioux City were $2 60 per hundred pounds, which, deducted from this table, shows as below:

Sioux City to	Yankton agency	$5 12
	Whetstone agency	5 12
	Brulé agency	5 12
	Crow Creek agency	5 12
	Cheyenne agency	6 12
	Grand River agency	6 12
	Berthold agency	8 12

Yankton, Whetstone, Brulé, and Crow Creek agencies are between Sioux City and Fort Sully; Cheyenne and Grand River are between Forts Sully and Rice; Berthold is between Fort Union and Muscleshell.

Commissioner Parker's contract of May 13, 1869, is at same rates as contract of Commissioner Taylor for 1868.

Rates paid under contract with same company, September 20, 1870, for September, October, November, and December, 1870.

Sioux City to	Yankton agency	$2 25
	Whetstone agency	3 25
	Lower Brulé agency	4 25
	Crow Creek agency	4 25
	Cheyenne agency	5 25
	Grand River agency	6 25
	Berthold agency	7 50

Rates paid, per hundred pounds, for transportation of way freight under Hiram K. Hazlett's contract with the Quartermaster General, computed from contract for March 20 to October 31, 1870.

	March to July, inclusive.	September.	October.	Table of distances.	Table of distances from Sioux City to—	River distances.
				Miles.		*Miles.*
Sioux City to Yankton agency	$0 75	$1 50	$2 25	142	Yankton agency ...	142
Yankton to Randall	75	1 50	2 25	104	Fort Randall	246
Randall to Whetstone	95	1 90	2 85	25	Whetstone agency .	271
Whetstone to Brulé.....	1 00	2 10	3 00	120	Brulé agency..... ..	391
Brulé to Crow Creek.....	1 00	2 20	3 00	11	Crow Creek agency.	402
Crow Creek to Fort Sully ...	1 15	2 20	3 45	79	Fort Sully agency .	481
Fort Sully to Cheyenne.....	1 15	2 30	3 45	65	Cheyenne agency ..	546
Cheyenne to Grand River ...	1 10	2 20	3 30	115	Grand River.....	661
Grand River to Fort Rice ...	1 15	2 30	3 45	110	Fort Rice.....	771
Fort Rice to Stevenson.....	1 30	2 60	3 90	164	Fort Stevenson	935
Stevenson to Buford	1 50	3 00	4 50	455	Fort Berthold.....	946
					Fort Buford	1,201

WASHINGTON, D. C., *Wednesday, February* 1, 1871.

WALTER A. BURLEIGH sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?—Answer. I live at Bonhomme, Dakota Territory.

Q. What official position have you recently occupied?—A. I was a delegate from Dakota in the Thirty-ninth and Fortieth Congresses.

Q. What is your present occupation?—A. I am a farmer.

Q. Have you dealt in cattle with the Commissary or Indian Departments, on the Missouri River?—A. Yes, sir; somewhat.

Q. You had contracts with them to what extent, and when?—A. I had a contract with the Commissary Department in 1869, and I had a contract with Mr. S. M. Janney, last year. My contract, in 1869, was to furnish supplies for the Indians on the Missouri River, during the month of July, I think. And in 1870 it was to furnish supplies, for one year, for the Santee Sioux, and commenced on the 1st day of November.

Q. Have you bought any cattle in Texas, to be delivered in Dakota this year—1870?—A. Last January I went to New Orleans, and telegraphed from there to Texas, and had a gentleman meet me at New Orleans, and made an arrangement by which he was to drive me 3,500 head.

Q. Where were they to be delivered?—A. He was to deliver them on the Missouri River.

Q. At what point?—A. I think at any point below Fort Randall; not above Fort Randall, and I am not quite sure it was above Yankton.

Q. What was he to deliver them to you for, gross weight?—A. I was to advance him $2 45 per hundred pounds, gross, upon the cattle, and he was to have one-half of all that was made out of them over and above that; and I was to attend to the business in Dakota.

Q. What would that be equivalent to per pound—as a reasonable business proportion?—A. Do you mean net beef?

Q. I mean gross.—A. That depends upon what we sold them for.

Q. Well, state about the amount.—A. I cannot say; it depends wholly upon the price they brought.

Q. Did you make an offer to the Indian Department, in 1870, to furnish cattle at the different reservations on the Missouri River; if so, at what price, and at what time in 1870?—Q. Some time in March, 1870, I wrote a letter to Mr. Covode, who was my friend here, in which I proposed that if the Indian Department would make the negotiation with me in season to enable me to put up my houses and corrals, cut hay, &c., I would undertake to feed the Sioux Indians on the Missouri River, on beef, at four dollars per hundred pounds, live weight, or eight dollars per hundred pounds, dead weight. I sent the letter to Mr. Covode, and he took it to the Indian Office, received a reply from Acting Commissioner Cady, and transmitted it to me.

Q. Did you preserve that reply?—A. I think I have it.

Q. Have you that reply with you now?—A. No, sir.

Q. Did they accept your offer?—A. Mr. Cady wrote me that they were not in funds, and the money had not been appropriated, and the matter dropped there. I was not prepared to go into the credit business for the Government to the extent it would require, and I never looked after it. I got the letter in return; my letter was replied to some time in April.

By Mr. WELSH:

Q. Did you write to Commissioner Parker during the last summer making any offer?—A. No, sir; only the offer I spoke of; that was the only occasion on which I wrote. I never wrote after that.

Q. What do you consider a fair difference between delivering a herd of cattle entire, immediately on their receipt, and keeping them at your own risk and expense on the Missouri River for delivery at any time during eight months, including the winter season—that is, as a fair business transaction?—A. I cannot give an opinion on that. The cattle lose in winter and gain in summer. I never did anything of the kind. I never kept any cattle except at home when I was feeding the Sioux Indians.

Q. If there were proposals in two ways for the coming year—one for the cattle to be received immediately as they reached the banks of the Missouri; the other proposal for the contractor to keep them at your own risk and expense, delivering them weekly or monthly, as the case might be, what difference would you make in your bills between the two ways of furnishing them?—A. I do not know; I never figured it up. Of course, if they would take all the cattle off my hands at once I would rather they would do so; but, as I remarked, I never had any experience in keeping them up there, except at my own place, and there I am prepared for keeping them. I never had any experience beyond that.

Q. This beef that you delivered under a contract to the Santee Sioux, was it good or common beef?—A. It was good beef—Texas beef.

Q. That was at the rate of $7 22, net weight, which is $3 61 gross?—A. Yes, sir; that is what I took the contract for.

By Mr. CHIPMAN:

Q. To what extent did you furnish beef to the Santee Sioux?—A. About five thousand pounds a week; some weeks a little over, and some weeks not so much.

Q. Such as you were able to furnish from your own farm?—I butchered nearly all of those on my own farm. I killed the beef in the fall and froze it. I purchased my cattle, and when the cold weather come on I invariably killed them and froze the beef, and had no difficulty in keeping it through to the spring in that way.

Q. And you delivered it at $7 22 net?—A. Yes, sir; that was my contract.

Q. Where is the Santee agency?—A. It is about six miles by the road, above my house, on the opposite bank of the river; in a direct line I suppose it is about five miles from my house.

Q. Is it one of the lower agencies?—A. It is the lower agency, until you get down to the Omahas or Winnebagoes. It is a very little above the town of Bonhomme.

Q. Were there advantages to you in being able to deliver in this manner, butchering on your own farm, and delivering as you did, over having to purchase in open market?—A. I had the cattle on hand—a mixed herd—and did not want to keep them. I had my men employed by the year; and by butchering them I could save the hides and tallow. It cost me very little, for we butchered in a short time.

Q. Did you turn in cows, too, in that contract?—A. Yes, sir; cows, calves, yearlings, and steers—everything.

Q. You say your proposition made in Texas was not carried out?—A. No, sir.

Q. I notice in the papers here that you furnished the Santee agency flour also. At what rate was that?—A. I think it was $3 35 per sack.

Q. To what extent did you furnish flour?—A. I believe it took about twenty-six hundred sacks during the year.

Q. Such as you could get there in the neighborhood?—A. I bought a good deal of it in Yankton, out of the wagons, and some at the nearest mills in Dakota, and the balance I bought in Nebraska, below the agency.

Q. You spoke of having furnished the Commissary Department in 1869. At what rate was that?—A. I got five and a half for the beef, or eleven cents net. That contract I made with General Clark, of Chicago.

Q. Are you somewhat familiar with the flour market along the Missouri River?—A. I have bought a good deal there during the last ten years.

Q. What would be the effect upon the flour market if an immediate demand was made, (and it was publicly known, by advertising or otherwise,) say, for 20,000 or 30,000 sacks to be furnished at once?—A. The effect would be, in my judgment, to bring up the price of flour to the rate that you could get it from abroad, deducting the freight. When I took this contract of mine with General Clark, before going out myself I sent out parties to purchase the flour, and they had to go to Cedar Rapids and buy it, in consequence of its being impossible to obtain that quantity nearer home. Besides, the

capacity of the mills in that country is limited, so that a large quantity could not be furnished at once.

Q. How was it in August, 1870; could this result have been avoided then?—A. It is one of the tricks of the trade out there, and I suppose everywhere else. They probably would have put up the prices, so that it would cost the same as if it was bought at a large market, with the freight out; I always found it so; and I have bought a great deal of flour for the Indians.

Q. If you were then intending to purchase ten or twenty thousand sacks in that market, what course would you pursue if you wanted to get it cheapest?—A. I would buy it quietly, unless I expected to pay the Chicago or St. Louis price, less the freight.

Q. Are you familiar with the transportation business on the Missouri River?—A. I have freighted a good many goods.

Q. At what season of the year does navigation practically close, as high up as, say, Cheyenne, in ordinary seasons?—A. We have, in the first place, what is known as the June rise, caused by the snow melting on the mountains, which generally occurs, say, the 25th May, and the river continues to rise until the 1st of July. Sometimes it does not continue later than the 25th of June, if the snows are not heavy. It then commences receding by the last of July, and though the water then is not as low as later in the season, the channel is filled up with quicksands, and it is difficult navigation from that time until the time the channel cuts out. The navigation is limited then on account of the shallow condition of the water. Navigation closes there, for heavy transportation, with the month of September, perhaps August. But boats can run usually until ice commences to form. I should think seven out of the ten years I have been there, the river has frozen over from the 1st to 22d of November; once it closed up about the middle of November, and opened again in December. This last year we had an extraordinary season. We had a rise of three feet in the fall, a thing I had never known before. We had a mild fall, and the boats continued running very late, until December.

Q. A contract was made June 17, 1870, by the Indian Department for the supply of a large quantity of beef, requiring about 3,000 head, to be delivered from the middle of July to the 1st of September. At the time the contract was made, there was no appropriation. The beef was to be delivered at the Indian agencies on the Missouri River, extending as high up as Grand River. The contract price for the delivery was 6½ cents gross. State your idea with regard to whether or not that was an exorbitant price, or a fair and reasonable price. The money had not been appropriated to pay for them, and the contractor had to take the risk of the appropriation?—A. I do not know whether it is reasonable or not. I would not have delivered them at any price, and taken the chance of an appropriation.

Q. Do you know what cattle were worth along the line of the Pacific Railroad, at that time?—A. I do not know. If I had gone into Dakota Territory to purchase the cattle, I would have been compelled to buy northern cattle, and paid 5½ cents for them, but one half that number could not have been obtained there. South I could get them cheaper. Everything depends upon the advantage a man can take of the times and markets. In the month of March I could get all my arrangements ready, and would agree to feed these Indians at 4 cents per year, live weight, or 8 cents net weight. In that case, that is, if net weight, I should demand the hides and tallow, and prompt payment.

Q. But when you were called upon to make immediate purchases, and it was known that a large amount of cattle were needed, the prices would naturally advance?—A. Yes, sir; that would be the tendency, unless the thing was kept very secret. I would not take any reasonable price, however, and await an appropriation.

By the CHAIRMAN:

Q. Suppose, however, that the contract provided that the Government should pay on the receipt of the agent's certificate?—A. And also that the payment depended upon the regular Indian appropriation bill? I would not have taken it at all.

Q. Then answer my first question. Suppose it is a part of the written contract that the money shall be paid immediately on the receipt of the agent's certificate, what would be a fair price?—A. I would not take it then, if the money had not been appropriated.

Q. But supposing the money to have been paid on the receipt of the agent's certificate of the delivery of the cattle, as it was in fact?—A. What was the length of time given to purchase the cattle?

Q. The contract is dated the 17th of June, and the contractor was to have until the 1st of September to deliver the last of them. They were to be delivered in three installments; the first the 15th of July, one-third about August 1, and the residue on the 1st of September.—A. I do not think I would have delivered the first installment for less than 6½ cents, the second installment less, and the third installment still less.

Q. How much less would you have delivered the second installment for?—A. I think a cent a pound less.

Q. How much less the third installment?—A. I should think there would be half a cent more.

Q. So that the first installment would be 6½ cents, the second 5½, and the third 5 cents?—A. Yes, sir. I believe I would have taken the contract for that, with the assurance that the money was to be paid as soon as the cattle were delivered. I will state in connection with this Santee Sioux contract that I lost $6,000 on it. It was a little bit of experience I undertook to purchase and I am satisfied with it. The contract amounted to about $16,000 or $18,000.

Q. What was the occasion of that loss?—A. I took the contract too low, and I lost some cattle.

Q. By stampeding?—A. Not altogether, but because I took it too low.

By Mr. WELSH:

Q. What did those cattle cost you when you bought them?—A. I bought them in Southern Kansas; I bought two herds there by the lump. I never made any estimate in regard to them. They were calves, year olds, two-year olds, steers, cows, and everything of the kind.

Q. What was the price in Aberdeen then for cattle?—A. They were paying three or four cents there two years ago last summer.

Q. Do you know the price this last season in Aberdeen?—A. I was not there.

Q. Do you know what it was in either of the other cattle markets?—A. I do not, except from hearsay.

Q. So this purchase that you made at $2 45, deliverable on the Missouri River, was with the understanding that if you made nothing more, he (the owner) would get nothing but the $2 45?—A. Yes, sir; he was to share both the profit and loss.

Q. Are you familiar with the rates at which the Texas drovers have been delivering cattle on the Missouri River?—A. Nothing, except from hearsay.

Q. The drovers told you?—A. The persons who went up with the cattle told me what the cattle they drove up sold for.

Q. Were those cattle you sold at five and a half cents American cattle?—A. Some were American and some were Texas.

Q. Where were they delivered?—A. A portion at the Yankton agency, a portion at Cheyenne, and a portion at Grand River.

Q. How many flouring mills are there now from Sioux City up, including Sioux City and ten miles up, on both banks?—A. There are two at Sioux City, and I should say eight altogether.

Q. What is the capacity of those mills?—A. The most have two running burrs.

Q. How much can two running burrs run off in two hours?—A. Probably one hundred and fifty to two hundred sacks.

Q. Is the supply of wheat for these mills raised in the neighborhood?—A. Yes, sir; I believe so.

Q. Is the supply ample this year?—A. It is for ordinary purposes this year. I do not believe it is for a contract of this magnitude. I do not believe there is enough in that portion of Nebraska to supply a contract of that character.

Q. What is the price of wheat at Yankton?—A. I do not know. I bought some there at seventy-five cents per bushel just before I came away.

By Mr. SARGENT:

Q. If flour was to be bought here and there quietly, by the few hundred, say for two or three thousand sacks in amount, could the agent of the Government do that as well without employing a contractor?—A. I do not believe he could, for the very reason that the moment an agent of the Government goes out there, they mistrust something is up. If he went out there without being known at all, I have no doubt the flour could be picked up, but not that amount of it.

Q. Is it necessary that the agent of the Government, going there for that purpose, should advertise it, either by his conduct or in any other way, so as to defeat his object?—A. I should not suppose it was. Still, if a stranger should buy a large quantity of flour in that way, dealers would find it out very quick.

Q. It a contractor finds it to his advantage to employ a resident commission merchant to make such purchases, paying a commission therefor, could not the Government act through those same means with advantage?—A. I see no reason why it could not, if so disposed.

By Mr. WELSH:

Q. Do you know whether Omaha or Council Bluffs have, either of them, any flouring mills?—A. Yes, sir; Council Bluffs has. I do not know whether there is in Omaha or not. There are several below there.

Q. Do you know about the rates of flour there this last season on from July, August, and September?—A. I bought flour in July and August.

Q. Where?—A. At St. James, twelve or fifteen miles below Yankton.

Q. I mean at Council Bluffs?—A. No, sir; I do not know anything about that.
Q. You say there is a considerable flour market there?—A. Yes, sir.
Q. What is the effect on the Indians there of keeping up the constant supplies; what would be the effect if the supplies should fall short?—A. They would steal. If the question of starvation or stealing was put to them they would steal. I think that has been the cause of our Indian wars heretofore. I know when I was in charge of the Sioux Indians there for several years, that when the Indians got out of supplies they would go off on hostile expeditions, and I could not control them; but when they had their bellies full you could control them and they would be peaceful.

WASHINGTON, D. C., *February* 3, 1871.

WILLIAM NICHOLSON affirmed and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. In North Carolina.
Q. What connection have you with the Indian service?—A. I have no connection as an agent of the Government, but as a general agent of the committee of the Society of Friends, attending to any matters that they may place in my charge.
Q. Did you in pursuance of that charge visit the Quapaw Indians at the time of the Williamson payment?—A. I did.
Q. State whether you were present at a speech made by General Blunt before the payment?—A. I was.
Q. State what was said in that speech, as near as you can remember?—A. I took no notes and was not paying sufficient attention to give any very accurate account of it. I did not take any particular notice of what he said. It was a general account of the great amount of work which he had bestowed in securing this appropriation to these Indians. He said, if I remember, that in the time of the war he was in charge of that section of the country, and that he had supplied in various ways their necessities; that by that means they became a good deal attached to him, so that after the war when they wished some one to present these claims they applied to him to prosecute them at the seat of Government, and secure an appropriation for them; that he did so; that he had been at a great amount of labor and expense; that he had spent thousands of money and probably might have to spend more to finally secure the whole amount; that they were to pay 33⅓ per cent. on the amount they received; that he was not to receive anything for his services unless he secured the appropriation.
Q. Whom did he make this speech to?—A. He spoke to the Indians in the presence of Commissioners Lang and Colyer, of Mr. Earle, of Massachusetts, and myself; and there were several other persons present whom I do not know.
Q. Did he make any appeal to the Indians?—A. He wished to know of the Indians whether they expected to do what they had promised—whether they expected him to have this 33⅓ per cent.
Q. Did he state how much money he had spent?—A. As far as my memory goes it was about $6,000, though he probably might have to spend $10,000 more—he did not know; he had a good many assistants engaged in the work, and he might have to spend $10,000 or more.
Q. Did he say he had to pay any of this money to members of Congress of either house, or that they had received any part of it?—A. I have no recollection of his specifying any individuals to whom he paid money. I do not remember anything about that.
Q. Did he convey the impression to your mind, from what he did say, that any of that money was to go to members of Congress, directly or indirectly?—A. I am not sure that I have any recollection of anything that he said about that, further than that I understood he paid it here in Washington, either to office-holders or claim-agents who were assisting him.
Q. Did you infer, from what he said, that he had paid it to any one in office here?—A. I do not remember that he made any assertion of that kind, and I should not infer that he meant that.
Q. Did he say anything about his having to buy and fight the matter through Congress?—A. He spoke of having trouble to get it through, and he may have used the expression that he had to "fight it through." I have no recollection of his having said that he had to buy it through Congress.
Q. Were you present at the payment the next day?—A. I was present at the payment the next day. I think I was not in when the payment commenced.
Q. Did Mr. Lang, or any one else, enter any protest against the payment of that money in the manner in which it was made?—A. I heard of no protest and knew of none.
Q. Did every one there seem to be satisfied with the mode of payment?—A. There was no objection made to the payment at all.
Q. Was any objection raised by anybody or dissatisfaction expressed, or complaints

made at General Blunt's taking so much money from the Indians?—A. Yes, there was. Superintendent Williamson and Commissioner Lang both made frequent allusion to that matter, and I suppose all of us made remarks of that kind. I do not remember any specific remarks. I know it was the general conversation.

Q. Did either of you suggest the impropriety of the money being deducted at that time?—A. Superintendent Hoag, I remember, made the remark that if he had the power he would only pay two-thirds of it, and send the other one-third back to the Department, and let General Blunt collect it there.

Q. Was that remark made to Mr. Williamson?—A. It was made in his presence, and Superintendent Hoag further remarked that he had nothing to do with it; that he was there only as a spectator.

Q. Was any person present to represent the Indian commission there?—A. Mr. Lang was there. No other member of the commission was there.

Q. He made no such remark?—A. He evidently disliked very much that General Blunt should receive 33⅓ per cent. He made no protest or remonstrance, or anything of that sort within my hearing. I knew of none.

Q. Did Mr. Williamson make any reply to this suggestion, that "one-third should be sent back to Washington?"—A. He replied to it that these were his instructions specifically, to pay the money to the Indians and to no one else, and that it would be a departure from his instructions to pay a part and not the whole; that if he paid any he must pay all; that there was no discretion allowed him in the matter.

Q. How long would it have taken for him to hear by telegraph from Washington and back again to the agency?—A. I suppose to Baxter, the nearest telegraph station, was six or eight miles from where the payment was made.

WASHINGTON, D. C., *February* 3, 1871.

JOSEPH A. WILLIAMSON recalled at his own request and examined.

By Mr. SARGENT:

Question. Have you any further explanation you desire to make to the committee, with reference to your payment to the Quapaws?—Answer. Nothing further except in reference to the bond, and also to the private instructions referred to by Mr. Lang, in which, I think, he unintentionally did injustice to Secretary Cox.

Q. Were the instructions you referred to verbal?—A. Yes, sir; from Secretary Cox.

Q. You may state any verbal instructions received by you from Secretary Cox at the time of your entering on that mission.—A. When I was ordered by him to go and make this payment, I detailed to him the difficulties surrounding a disbursing agent, and illustrated it by the Choctaw and Chickasaw payments which I had witnessed. He replied to me in these words: "I have conversed with Mr. Colyer upon the subject of these attorneys' claims. He understands the business perfectly. Mr. Colyer will be present at each payment to take charge of the Indian when you have put the money into his hand, and supervise his interest. So far as you are concerned, if the Indian throws his money into the Arkansas or makes any other disposition of it, you will not be held responsible. Mr. Colyer will not have anything to do with your duties, nor should you have anything to do with his duties. He will examine the vouchers at the agency. I shall talk wth him fully upon the subject, and if he applies either for bacon or flour you will take from General Blunt fifteen thousand dollars—ten thousand to cover a certain deficit, and five thousand to cover the necessary repairs on certain buildings. If these debts are honest the Indians ought to be advised to pay them, I think."

WASHINGTON, D. C., *February* 3, 1871.

ELY S. PARKER, Commissioner of Indian Affairs, recalled and examined.

By Mr. WELSH:

Question. What evidence is there of the earliest moment of the receipt of Boyd's bid in your office for the contract advertised for August 27, 1870, and made September 12 following?—Answer. The bids were opened there on the 12th, and the evidence to me is the chief clerk's indorsement.

Q. Did you not see it before that indorsement?—A. There was a bid brought in after 12 o'clock that day. I could not say that it was the same bid. I did not read it.

Q. Did this bid come by mail to your office?—A. That I cannot say to my knowledge. If the one that was brought to me and this are identical, it did not come by mail to the office. At 12 o'clock we sent over to the post office to see if there were any bids there, and we found there were none.

By Mr. SARGENT:

Q. The envelope covering this bid seems to have no stamp on, or cancellation of stamp; would that be evidence that it came personally, and not by mail?—A. No, sir; because mail matter comes free to that office.

By Mr. WELSH:

Q. Can you say of your own knowledge that this did not come by mail?—A. No, sir.

Q. Are you prepared to say of your own knowledge that this was never in your office until after 12 o'clock August 12?—A. I could not do it. The first time the bid came to my knowledge it was brought in by Mr. Cady, chief clerk. I directed him to note the time that it was brought in, and that it was too late.

Q. Do I understand you to swear that this bid was not in the possession of your office before 12 o'clock on that day?—A. I could not. The indorsement on this bid is, "Too late. Received August 12, 1870, at 2½ p. m."

By Mr. CHIPMAN:

Q. In whose handwriting is that indorsement?—A. In that of Mr. Cady, chief clerk.

Q. Is that August correct?—A. I should say not.

Q. What reason have you for thinking that it was not dated properly?—A. Because the bids under this letting would not be opened until September 12, and the letter was dated in September.

By Mr. WELSH:

Q. Have you the original telegram reducing Morrow's bid for beef and Bosler's for bacon? if so, please produce it.—A. I have here the original telegram, which I received September 12, 1870. It is as follows:

"OMAHA, NEBRASKA, *September* 11, 1870.

[Received September 12, 8.10 a. m.]

"Hon. E. S. PARKER, *Commissioner Indian Affairs:*

"J. A. Morrow reduces his bid for beef two cents per one hundred pounds, and J. W. Bosler his bid for bacon one-quarter of one per cent. per pound.

"J. W. BOSLER.
"J. A. MORROW."

Q. Can you tell me in whose handwriting the date "September 12" is on this telegram?—A. I suppose it is in the operator's handwriting.

Q. Do you know at what time this was received at your office of your own knowledge?—A. No, sir.

Q. As there was no security attached to this, why was it received as a bid?—A. I cannot tell you any more than that it was considered, I think, both by Secretary Cox and myself, to be a part of the bids already in possession of the office at that time.

WASHINGTON, D. C., *February* 3, 1871.

A. T. HUNTINGTON sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. Chief book-keeper for Jay Cooke & Co., New York.

By Mr. WELSH:

Q. Have you an abstract of the items in J. W. Bosler's accounnt since the end of May last?—A. I have and present it to the committee. I also have with me the checks.

Q. What entries in the book have you beyond these?—A. I have no entries which show any more upon the book than these checks show; the entries correspond with that statement.

[The statement referred to will be found in the appendix, page 187.]

WASHINGTON, D. C., *February* 3, 1871.

General M. C. MEIGS recalled and examined.

By Mr. SARGENT:

Question. Some testimony has been given tending to show that the contract with Hiram K. Hazlett, which you now hold in your hands, made by the Quartermaster's Department, is intended to provide for way freights as well as through freights, and that it provides the rates for the way freights as well as those for the through freights. Is that correct?—Answer. Yes, sir.

Q. Please look at the contract and state the rate provided for way freights between Yankton and Fort Randall.—A. For March, April, May, June, July, and August, 75 cents; for September, $1 50; for October the rates are 200 per cent. in advance of March, April, May, June, July, and August, which would make it $2 25.

Q. What are the distances?—A. The table shows, I think, that the distance from Brulés to Crow Creek is eleven miles.

Q. What are the rates for way freight?—A. One dollar for March, April, May, June, July, and August; $2 20 for September, and $3 for October.

Q. Is that rate of freight for these eleven miles the rate per hundred miles, or for the whole distance?—A. I think these are the rates for the whole distance.

Q. Is there much way freight?—A. Very little. I had probably better state generally that the points of shipment were mainly Chicago and St. Louis. The great amount of our shipments are for the purpose of supplying troops at the points of consumption. We send up our supplies for everything that is necessary; but in making these contracts we found it desirable to make some arrangement, in case a garrison is changed from one post to another, to provide for the means of supplying, then of moving them from one post to another. The steamer, which may be at St. Louis or Sioux City, will have to come all the way perhaps empty in order to take the cargo from Brulés to Crow Creek, these eleven miles; so that we must pay for these eleven miles the cost of sending the steamer from St. Louis to that point and back again. The way freights are of exceedingly small consequence in comparison with the whole contract, but they are taken into consideration in making up the calculation as to which is the lowest bid for the whole contract, and although we got these high prices for small distances, yet the freights sent are so inconsiderable that it is of very little consequence in comparison with the whole contract. If we should have wagons at one of these points, and could transport them cheaper by land than by ordering up a steamer from St. Louis, we should of course do that; but if the steamer has to be ordered up we must of course pay these prices, which are the prices lowest bid.

Q. And you say the items of way freight are insignificant in comparison with the great bulk of your freight?—A. Very insignificant in comparison with the great amount of freights from St. Louis and Chicago and these various points.

By Mr. CHIPMAN:

Q. I notice on page ten of your manuscript deposition given heretofore, you say: "I should like to say that, of course, the Quartermaster's Department did not undertake that transaction as a volunteer business. Whatever we did for the Indian Department was done by order of the Secretary of War, and as I understand in this case, at the request of the Interior Department and the Indian Bureau." Does that refer to your arrangements in 1869 for carrying freights?—A. I was speaking then generally of this question of transportation. I ascertained shortly after I gave that answer, in looking over the letters on the subject, that there were letters written in 1869 on this subject, referring to the two million dollars appropriation given to the President to keep peace with the Indians. That request by the Secretary of the Interior and Indian Bureau, so far as I know, was not repeated the next year, but went into our advertisements for proposals as a matter of routine.

Q. I call your attention to page eleven of your testimony, in which, to the question, "Whether the Commissioner of Indian Affairs knew he could avail himself of the benefits of your contract for carrying Indian goods," you reply that the Commissioner of Indian Affairs, as you understood, wrote a letter to the Secretary of the Interior, which was sent to the Secretary of War, requesting you to provide transportation for Indian goods; do you refer to the same correspondence of 1869?—A. To the same correspondence of 1869.

Q. It did not relate to the contract of 1870?—A. It was before that contract existed; but, as I said, having been requested to do that as a matter of routine, we continued in our advertisements for proposals to include the transportation of Indian goods, although I do not know that any request by the Interior Department of that description was again made.

Q. You do not know whether the Commissioner of Indian Affairs had any knowledge that you had so provided?—A. I do not know. We continued to do it as a matter of course.

By Mr. WELSH:

Q. I observed in the last letter you increased the number of pounds to be carried up to forty millions.—A. There were two contracts, and were for twenty million pounds each, making forty millions. You will find in the settlements that some Indian goods were transported.

WASHINGTON, D. C., *February* 3, 1871.

DE WITT CLINTON POOLE, captain United States Army, stationed at Fort Randall, Dakota Territory, sworn and examined.

By Mr. WELSH:

Question. How long were you Indian agent at Whetstone?—Answer. I was detailed in the month of May, 1869. I reported for duty in the month of May, 1869. I remained upon duty until the 18th of December, 1870.

Q. We have in the papers and before the committee an account of your receiving a

herd of cattle from the Commissary Department; do you know at about the date they were received?—A. About the last of June I received a lot from the Commissary Department.

Q. Do you know whether they were cattle that had been herded in that neighborhood or not?—A. They were cattle, as I understood, kept there by the Commissary Department, for the use of that Department.

Q. Did you see any contract or contracts for any cattle to be delivered at Whetstone at any time during the summer or autumn?—A. I saw, last fall, what purported to be a contract.

Q. With whom?—A. Mr. Hutchinson was the contractor.

Q. Do you remember for how many cattle?—A. I think for about sixteen hundred head, to the best of my recollection. This was in the latter part of 1870.

Q. What price was to be paid for them?—A. The price stated in that paper was $2 75 per hundred gross weight.

Q. How many cattle did he receive toward the end of June from the commissary?—A. About thirteen hundred head.

Q. Was it on the Bosler or Morrow contract to be delivered?—A. The Morrow.

Q. After receiving the thirteen hundred head from the commissary were you notified that others were coming?—A. I was.

Q. Did you express a willingness to receive them or a disinclination to receive them?—A. I expressed a disinclination to receive them.

Q. Upon what ground?—A. That I had cattle on hand enough for present wants.

Q. Was there an abundance of grass at that season?—A. No, sir, there was not. There had been a drought prevailing there, as I understood. I was not at the agency through the first part of the month of June, and I do not know at what time it commenced, but I know when I arrived there in July the drought was very great.

Q. What ground of objection did you make to having them delivered?—A. I wrote to the Department, through the proper channels, stating that I had cattle enough on hand, and that I asked for an order not to receive these cattle.

Q. Did they show you the contract as to the time these cattle were to be delivered?—A. I received notice afterward that they were to be received in July, August, and September. I had then enough cattle, as I have stated, and I said that I would not receive these without positive orders from the Department.

Q. Why?—A. I apprehended loss from stampeding, and I did not want the trouble and expense of taking care of them. It would require an extra force of herders. The herd would have to be separated. It was too large to keep together, and would involve double expense.

Q. Had he delivered only one-third according to contract, at that time, and one-third a month later, would that have done anything to relieve you of difficulty?—A. Yes; we should have been drawing upon the supply all the while for consumption.

Q. What was the effect then of having the cattle which, under the contract, were to be delivered in August and September delivered in July?—A. The effect was to increase the expense. I was obliged to employ an extra set of herders. They were herded at a stipulated price, and this herd had to be kept separate. It was impracticable to keep them together on account of the danger of stampeding, and then it was impossible to find grass for so large a number without a very large range.

Q. Did you send any notice to the Commissioner of Indian Affairs about the anxiety of the Indians to receive their annuity goods?—A. Yes, sir.

Q. What was the reply?—A. I received a reply from the Department that they would be there, I think it was, the 15th of September—a telegraph reply. I telegraphed at the instigation of one of the principal chiefs, Spotted Tail, who was very anxious about his goods, and asked me to do so.

By Mr. CHIPMAN:

Q. The matters about which you have been speaking have been embodied in official communications, have they not?—A. Most of them, except in regard to the annuity goods.

Q. In regard to the receipt of the cattle, was that made a matter of correspondence?—A. Yes, sir.

WASHINGTON, D. C., *February* 3, 1871.

General WILLIAM MEYERS recalled and examined.

By Mr. CHIPMAN:

Question. Have you any memoranda showing specifically the transportation contracts you made for way freights; if so, please state them.—Answer. I have no memoranda of anything of that sort since 1866.

Q. In a transporation contract for horses and mules, as well as officers and troops, would that make any difference in the rate per pound for transporting freight?—A. If it were known that any considerable number of troops and animals were to be trans-

ported, I should think it would have the effect of giving us more favorable rates for way-freights.

Q. Did you ever have occasion to contract as late as November?—A. No, sir.

Q. Would November freights be at larger freights than October freights; if so, how much larger?—A. It would be almost impossible to get anybody to undertake to contract as late as November to go any distance up the Missouri River.

Q. Why?—A. By reason of the low condition of the river, and the probability in going up any distance of being ice-bound and unable to get back.

Q. At what time does the navigation of the river close above Sioux City?—A. At various periods; usually from about the latter part of October to the middle of November.

Q. At what time would it be safe to ship goods up to any high point on the Missouri?—A. You could ship as high as Randall the whole month of October if the season was favorable.

Q. Do you know J. W. Bosler?—A. Yes, sir.

Q. How long have you known him?—A. Eight years.

Q. How well have you known him?—A. I have known him as a man of business at Sioux City, and as a Government contractor.

Q. Do you know enough about him to speak of his character as an honorable man, and of his integrity as a business man?—A. I never heard a word said against his character or against him as a man of integrity.

Q. How has he been regarded in your Department?—A. He has been regarded as a man who always fulfilled his contract.

WASHINGTON, D. C., *February* 3, 1871.

Major B. DUBARRY recalled and examined.

By Mr. CHIPMAN:

Question. Have you any memorandum showing the price paid by the commissary at posts along the Pacific Railroad, west of the Missouri River; if so please submit it to the committee.—Answer. I have and I now submit it.

Q. Have you compared the exhibit you present here with the official records?—A. Yes, sir.

Q. Is the memorandum you have an abstract from the records?—A. Yes, sir, from the records of the Commissary General of Subsistence. The prices are net except where they are marked "gross."

Q. Does the first column show the place where furnished?—A. Yes, sir.

Q. And the second the date of the contract, the third and fourth columns the date from which and to which period included in the contract, the fifth column the price net, except where indicated as gross?—A. Yes, sir.

Q. These contracts were let on advertisements for proposals?—A. Some of them.

Q. Does the exhibit explain that?—A. It does not. There is one dated May 22, 1869, at $5 75 gross, fifty head to be delivered at Randall. With the exception of this the contracts were bid on advertisement.

[The tabular statement referred to placed in evidence to be inserted in the appendix.]

By Mr. WELSH:

Q. State whether any of these were American cattle, or have you any knowledge on that subject?—A. I cannot say positively as to whether the contracts included only American cattle; but my impression is that the contracts of 1870 and 1871, for the Northern Missouri River, excluded all except American cattle. I will not be positive as to that.

Q. Do you know as to what restrictions there were as to the weight of cattle in this contract?—A. I cannot say positively. I believe they were to average a thousand pounds gross weight.

Q. Do you know the usual difference between delivering three or four thousand head of cattle at a time and delivering them in small quantities?—A. I cannot give the explicit difference. There would be considerable difference.

Q. Do you know whether at these posts a specific quantity is given so that the contractor can tell definitely what he will deliver, or have you a right to vary the quantities?—A. Some were for specific quantities, and some were such as might be required for specific purposes.

Q. How often was the contractor to deliver them under these contracts?—A. Some required four or five times a week; they were usually to be delivered in bulk, and I think were all to be delivered within a specified time.

Table referred to in testimony of Major Du Barry.

Where furnished.	Date of contract.	From—	To—	Price.	Remarks.
Omaha	Aug. 10, 1869	Sept. 1, 1869	Aug. 31, 1870	8.9	
	July 29, 1870	Sept. 1, 1870	Aug. 31, 1871	9.1	
Fort Kearney	June 17, 1869	Sept. 1, 1869	Aug. 31, 1870	10.0	
	June 21, 1870	Sept. 1, 1870	Aug. 31, 1871	11.0	
Fort McPherson	June 17, 1869	Sept. 1, 1869	Aug. 31, 1870	10.0	
	June 21, 1870	Sept. 1, 1870	Aug. 31, 1871	9.5	
North Platte	June 17, 1869	Sept. 1, 1869	Aug. 31, 1870	10.0	
	June 21, 1870	Sept. 1, 1870	Aug. 31, 1871	9.45	
Sidney Station	June 17, 1869	Sept. 1, 1869	Aug. 31, 1870	10.0	
	July 15, 1870	Sept. 1, 1870	Aug. 31, 1871	9.5	
Fort Sedgwick	June 17, 1869	Sept, 1, 1869	Aug. 31, 1870	10.0	
	July 18, 1870	Sept. 1, 1870	Aug. 31, 1871	11.5	
Fort D. A. Russell	June 17, 1869	Sept. 1, 1869	Aug. 31, 1870	10.0	
	June 21, 1870	Sept. 1, 1870	Aug. 31, 1871	9.5	
Fort Laramie	June 17, 1869	Sept. 1, 1869	Aug. 31, 1870	10.0	
	June 21, 1870	Sept. 1, 1870	Aug. 31, 1871	9.5	
Fort Fetterman	June 17, 1869	Sept. 1, 1869	Aug. 31, 1870	10.0	
	June 21, 1870	Sept. 1, 1870	Aug. 31, 1871	9.5	
Fort Randall	April 12, 1869	On or before	June 20, 1869	3.9 gr.	90 head; 50 additional by July 10, 1869.
	*May 22, 1869	On or before	June 10, 1869	5.75 gr.	50 head. Yankton and Ponca Indians.
	April 29, 1870	On or before	July 21, 1870	4.75 gr.	290 head.
Fort Sully	May 29, 1869	On or before	July 20, 1869	4.20 gr.	600 head.
	April 29, 1870	On or before	July 20, 1870	5.9 gr.	390 head.
	Aug. 22, 1870	On or before	Oct. 15, 1870	5.0 gr.	160 head.
Fort Stevenson	April 12, 1869	On or before	July 16, 1869	5.3 gr.	90 head; 100 additional by July 10, 1869.
	May 2, 1870	On or before	July 20, 1870	5.15 gr.	100 head.
Fort Buford	April 12, 1869	On or before	Aug. 1, 1869	5.85 gr.	150 head; 40 additional by August 10, 1869.
	May 2, 1870	On or before	Aug. 1, 1870	5.69 gr.	170 head.

* Purchased in open market.

The above prices are all net, except where marked gross.

May 29, 1869, by written contract, without advertisement, (to be delivered on or before July 1, 1869:)

Whetstone Creek ..... 225 head, at 5½ gross.
Big Cheyenne ..... 275 head, at 5½ gross.
Grand River ..... 325 head, at 5½ gross.

WASHINGTON, D. C., *February* 3, 1871.

JOHN FINN sworn and examined.

By Mr. SARGENT:

Question. State your residence and occupation.—Answer. I reside in St. Louis; I am at present engaged in pork-packing; I am also a cattle-broker.

Q. Do you know General Parker, Commissioner of Indian Affairs?—A. I do.

Q. Did you in June last have any conversation with General Parker in his office, with reference to putting in a bid to furnish cattle for Indian purposes?—A. I did.

Q. About what time was that conversation?—A. It was frequent in May, June, and July.

Q. You spoke to him frequently about it in May, June, and July?—A. Yes, sir; I do not know the dates.

Q. Did you make any proposition to him to furnish beef for these purposes?—A. I did.

Q. Did you have any conversations on that subject about the time of the letting of the Bosler contract in June?—A. I did.

Q. How near to the time of the letting of that contract?—A. The same day; I think the day before, and the very day.

Q. What did you propose to furnish him beef for?—A. I offered him Texas cattle at 4½ cents a pound, and American cattle at 6 or 6½ cents a pound, gross; I cannot say which.

Q. Did you make any further offer to him in that connection?—A. I did; I told him I had cattle at the Winnebago agency, and that if he did not consider them worth 4½ cents a pound, I would take less for them; that I wanted to sell them.

Q. Had you a contract at that time to furnish cattle to any of the agencies; and if so, for how much and to what tribes?—A. I supplied the Winnebago agency for seven cents net, or three and a half gross.

Q. Did you have cattle enough on hand to take a large contract on the Missouri River?—A. No; I could not fill a large contract with the cattle I had on hand, but I could fill any contract; I could get the cattle.

Q. What reply did Commissioner Parker make to this proposition to furnish cattle

at those rates?—A. He told me he had not any money appropriated by the Government to buy cattle; that if I would give him all the cattle I ever owned at half these rates, he could not take them, because he had no money appropriated for the purpose; that he could not let a contract.

Q. Was anything said about the condition of the Indians or the necessity of furnishing beef to them?—A. Yes; I told him I had heard from the agent at Whetstone and from other reservations that the Indians were in great need of stock, and asked him if he was not going to buy them. He told me he would not do it. I asked him what he was going to do in regard to supplying these Indians. He said the Indians would protect themselves the same as they did previously; that they could take to the plains and subsist the best they could.

Q. Did he refuse to accept your proposition?—A. He did.

Q. On what day was this particular conversation that you allude to with reference to the time of making the Bosler contract?—A. I could not swear to that; I think it was the 16th or 17th of June.

Q. With reference to the time of making the Bosler contract, was it on the day you heard the contract was made or the day before?—A. It was the same day. I cannot swear positively to that. I know from other parties that he made a contract that day. I never saw the contract; I understood that it had been made.

Q. How long after the contract was made did you hear of it?—A. I heard within two or three hours, that same afternoon.

Q. Did you have the facilities for executing such a contract, the herders, &c.?—A. I did.

Q. State to what extent you had such facilities at that time.—A. I refer to General Sherman, General Allen, chief quartermaster, and General Meyers for that.

Q. State what facilities you had in the way of herders, buildings, &c., for filling such a contract.—A. I had the means and the money. I could fill any contract the Government could give me at that time.

Q. Did you have men in your employ to do that business at that time?—A. I had; I had horses and cattle at the agency, and I was able at that time to fill any contract the Government would give.

Q. Was your contract for the Winnebagoes for a part of the year or the whole year?—A. For the whole year—twelve months.

Q. Would or would not the fact that the appropriation bill had not passed have made any difference in your willingness to take a contract at that time?—A. It would make this difference: I would supply the commissary department a dollar less than I would the Indian Bureau. I was willing to take a contract at that time at the price I bid, taking the risk and waiting for an appropriation. That is the reason I bid higher.

Q. What amount did you inform the Commissioner of Indian Affairs you would take the contract for?—A. For Texas cattle at 4½ cents a pound, and 6½ for American cattle. In fact, there were no American cattle in that country, and 4½ cents was the bid I made for Texas cattle.

Q. Were the cattle you had on hand as good as those furnished by Bosler?—A. I never saw his cattle.

Q. Were they as good as the average of Texas cattle?—A. Better, a good deal.

Q. Why?—A. Because they were there on the ground the year previous; they were not just driven from Texas; they were there that year, and they were better than ordinary Texas cattle.

Q. Who else was present at that conversation between you and Commissioner Parker?—A. Mr. Baldwin, from Council Bluffs, heard my conversation with General Parker.

Q. What was his other name?—A. I do not know.

Q. When you heard of the Bosler contract and its terms, how much less could you have taken that contract for? How much would you have given for that contract, which was for three and a half million pounds, gross, at 6½ cents a pound?—A. I never figured up on it, and I cannot tell you now. I offered Bosler here $75,000 to turn the contract over to me.

Q. When did you make that offer?—A. In Washington, about that date.

Q. Was any one present?—A. I think not. I made it through Mr. O'Connor, I think; told him.

Q. Who is Mr. O'Connor?—A. Harney's secretary.

Q. Where is he now?—A. In Washington. I told him—I do not know whether he recollects it or not—that I would give that if he would get it for me.

Q. Did you authorize Mr. O'Connor to make that proposition to Mr. Bosler?—A. No, not exactly that.

Q. Did you yourself propose that to Bosler?—A. No; I said I would give that for he contract.

[The chairman, Mr. Sargent, proposes that as this testimony does not show that witness authorized O'Connor to make this proposition to Bosler, and it does not appear whether O'Connor made it, it be stricken from the record; but it is retained at the request of the counsel of General Parker.]

Q. Do you remember whether or not you stated to General Parker you would wait for the money until the appropriation bills passed?—A. Yes.

Q. What did you tell him?—A. I told him if he would give me a contract I would agree to wait for the money until the appropriation was made, and that I would take the risk of Congress appropriating the money.

By Mr. WELSH:

Q. Have you been in the habit of supplying large contracts of cattle?—A. Yes.

Q. Do you remember the largest contract you ever made in any one year?—A. No. I have sold the Government of the United States more mules and horses than any man living. I sold it more than 170,000 head of horses and mules. I sold more live stock, in my opinion, than any man living.

Q. Have you sold oxen in large quantities to the Government?—A. No. I had a contract for the Department of the Platte for two years, for beef cattle. I supplied all their posts two years.

Q. If I made proposals in September for 7,000 Texas oxen, and asked for two bids—one the cattle to be received immediately at the various agencies on the Missouri River, and the other the cattle to be kept by the contractor and delivered as they were wanted through nine months, at his own risk—what difference would you make between these two contracts, and how much a pound?—A. From the 1st day of May to the 1st day of December, I would make a difference in that kind of contract of 2½ cents a pound. I would furnish for 3 cents a pound in March, April, May, June, July, August, September, October, and November sooner than I would during the other months in the year for 5½ cents a pound. I would make that difference.

Q. Are you familiar with the price of cattle at Abilene, Kansas, during the last season?—A. Yes, sir; good cattle were worth 2½ to 3 cents a pound.

Q. By good cattle what do you mean?—A. I mean that cattle weighing a thousand pounds were worth 2½ or 3 cents.

Q. The ordinary run of cattle, such as are usually driven to the Missouri River, cattle averaging 900 or 925 pounds, would be worth how much?—A. From 2 to 2½ cents, the common grade of cattle.

Q. Do you know what drivers charge, when you buy at Abilene, for delivering them on the Missouri?—A. I do not.

Q. When you have been supplying there have you driven yourself, or bought the cattle deliverable?—A. We have always driven them ourselves.

Q. What would be the cost per pound of driving from Abilene to Whetstone, say?—A. In making a contract I would make at least half a dollar a hundred difference. They could be driven for 20 or 25 cents; but I would not contract and run the risk for less than 50 cents.

Q. In wintering cattle what do you consider a fair difference between having them delivered the 1st of October or the middle of November?—A. It would be about the same thing. The middle of October and the middle of November the weather is about the same, and I would not make any difference on account of that thirty days; but between November and March I would make at least 2½ cents difference.

Q. If you were to winter cattle under contract, state whether you would pay more if they were delivered the 1st of October than you would to deliver them during the winter as they were wanted?—A. I make 2½ cents difference between the 1st of May and the 1st of December. I would sooner take them from May to November at 3 cents than during the winter months at 5½, for the reason that the country is barren, and you cannot get forage through the winter. Then the loss is much less. In the summer they are not subject to stampeding; in the winter they are all the time.

By Mr. CHIPMAN:

Q. Did you communicate the proposition you made to General Parker in writing?—A. I did.

Q. And sent it to the Department?—A. Yes.

Q. Was that the time you had this talk with him?—A. Yes.

Q. That letter contained your proposition?—A. Yes.

Q. Have you the answer to it?—A. No, sir; the letter was sent back to me.

Q. That letter embraces your proposition?—A. No; I had other propositions previous to that, but not in writing.

Q. How many cattle had you at that time?—A. I cannot state; I had a good many.

Q. How many?—A. I suppose I had three or four hundred head altogether.

Q. What kind of cattle?—A. The common run of cattle.

Q. What do you mean by "common run?"—A. Texas cattle, some cows and some steers.

Q. What did you say you got for your Winnebago contract?—A. About 7 cents net or 3½ cents gross.

Q. How many herders had you?—A. I had about eight or ten.

Q. How many wagons had you?—A. Two.

Q. How many horses and mules?—A. A good many.
Q. Where were your ten herders?—A. They were out there in the Smoky Hill country.
Q. What were they doing there?—A. Herding cattle.
Q. Did you have a contract in 1868 or 1869 to furnish beef for the Government to the Harney Peace Commission?—A. I did.
Q. What price did you have then?—A. He gave me a contract at $7 90 a hundred gross in the winter.
Q. How many months did you have the contract?—A. Two or three months, I think.
Q. You furnished beef only in the winter?—A. That is all; I took a contract in February, and furnished under it in March, April, and May.
Q. Where did you furnish the beef?—A. At Whetstone, Grand River agency, and along the country up there.
Q. Was the price you got, $7 90 gross, a reasonable price at that time?—A. At that season of the year it was. I had to buy stall-fed cattle, and I had no chance to get them short of Iowa or Missouri. They were all stall-fed cattle; I could not get any grass-fed cattle at that season of the year.
Q. Were there any Texas cattle among them?—A. Yes; some that were wintered there; but they were stall-fed. I paid as high as $6 a hundred weight for some cattle I furnished to this commission.
Q. You say you furnished none prior to February?—A. No; not under that specific contract.
Q. Did you furnish the Government any beef for which you got your pay in November, 1868?—A. Yes.
Q. What was the price then?—A. That was a contract made with General Sherman at Fort Laramie.
Q. At what price did you furnish under it?—A. I had a contract for the whole department at thirteen cents a pound. General Sherman, General Augur, General Harney, and General Terry were all on the commission at that time. They asked me if I would furnish them for the same price I furnished under the Government contract. I told them that if they would pay the money I would give them cattle the same as I did Government, at thirteen cents a pound. General Sherman said: "We cannot give you money; we will give you vouchers at fourteen cents a pound, and you may wait until the Government makes the appropriation."
Q. Was that gross or net?—A. Net.
Q. And you were getting thirteen from the Commissary Department?—A. Yes; and they gave me fourteen cents with the understanding that I was to wait for the money, and I did so.
Q. Did you furnish flour at any time?—A. Yes.
Q. What did you get for the flour?—A. I think I got $17 a barrel, as near as I can recollect. I only had a small contract.
Q. Did you regard the price of beef for the Winnebagoes as fair and reasonable?—A. Yes.
Q. Was there any profit in that contract?—A. Yes.
Q. How much?—A. I cannot tell how much; I made some money on it.
Q. Did you buy any of the cattle you sent under the Winnebago contract from C. E. and D. F. Hedges?—A. I never did.
Q. Were there any bought for that purpose of these parties?—A. Not to my knowledge.
Q. Were you out there at the time?—A. I was.
Q. Did you stay the whole time while the contract was being filled?—A. I did not; I was there three or four times during the whole year.
Q. What year was that?—A. The last year.

By Mr. WELSH:

Q. Do you know J. E. Boyd, of Missouri?—A. Yes.
Q. Is he a responsible man?—A. He is.
Q. Is he in the cattle business?—A. He was.
Q. Do you know John W. Gilman and N. C. Nettleton?—A. I know John Gilman very well.
Q. Is he a responsible man?—A. He is.
Q. Nettleton you do not know?—A. No.

By Mr. CHIPMAN:

Q. State whether you feel unfriendly or not towards General Parker?—A. No, sir.
Q. Have you never expressed any unfriendly feelings toward him?—A. I did on one occasion last year. I thought he might as well have let me have the contract at four and a half cents as Bosler at six and a half. I thought I could fill a contract as well as Bosler. That is the only time I expressed anything in that way towards General Parker to my knowledge.

By Mr. CHIPMAN:

Q. How did the prices of 1867, 1868, and 1869 compare with those of 1870?—A. There was no difference in that country.

Q. How in the general market?—A. It was about the same.
Q. Did you furnish cattle under contract in 1869 anywhere west of Missouri?—A. Yes.
Q. At what points?—A. At Fort Harker, Fort Wallace, and Fort Hays.
Q. What did you get?—A. I think it was $9 96 net.

By Mr. WELSH:

Q. Were these American cattle or Texas cattle?—A. I supplied a good many American cattle and some Texas.

Q. What difference would you make between the delivery of five or six thousand, all at one time, on the Missouri River, or supplying the different points at different times as the cattle were wanted?—A. I would make about $2 50 a hundred in favor of the delivery at one time. However, I cannot answer the question generally. Cattle on the plains, like the market, depend entirely on the quantity and quality. I would make $2 50 difference between delivering after November and delivering in the summer. Between six thousand head all at one time and delivering them at different times I would make a dollar a head difference.

Q. Suppose there were four thousand to be delivered at one time, what difference would you make between such a proposition and to deliver them at different times as they were wanted?—A. I would make a difference of a dollar and a half a head.

WASHINGTON, D. C., *February* 6, 1871.

ROBERT MCBRATNEY sworn and examined.

By Mr. SARGENT:

Question. State your residence and occupation.—Answer. My residence is Junction City, Kansas. My occupation is that of an attorney.

Q. In what courts do you practice?—A. In the district and supreme court of the State, and in the courts here in Washington.

Q. Were you present at the time that payment was made to the Quapaw Indians?—A. Not during the whole payment; I was present during a part of it.

Q. How did you happen to be there?—A. I happened to be there on business which did not at all relate either to the Senecas or to the Quapaws. I went there for the purpose of meeting Batiste, one of the Peoria chiefs. He had no interest in the payment made there.

Q. Were you an attorney for the Indians?—A. Not for any of the Quapaws; I was for Batiste.

Q. In what matters?—A. In the matter of securing the last treaty which the Peorias had made in 1866, I think, and also in the matter of procuring the passage of a bill through Congress for a division of their funds. The Peorias are fragments of different bands.

Q. Are those bands now mixed with the Quapaws?—A. No, sir; they still maintain a separate organization.

Q. How happened Batiste to be there?—A. We met there by appointment. Their new home is below that of the Quapaws and Senecas. Batiste did not come the first day, and consequently I stayed over the second day to meet him.

Q. Why was that time and place appointed for the meeting?—A. Because we both desired to see the Senecas. I had some other business there also. I am engaged for some New York Indians, who think they have a claim against the Delawares, and I thought to meet them there.

Q. Did you obtain any fees from the Indians that you represented?—A. I did.

Q. How much?—A. I cannot say exactly, but I suppose I have had altogether $2,000.

Q. Have you a contingent fee for your services with the Peorias?—A. No, sir; that business is all concluded now.

Q. Was the business concluded at that time?—A. No, sir. If you desire it, I will state the business and the compensation.

Mr. SARGENT. I would like to have you state it.

WITNESS. For assisting them in regard to their treaty, which was made in 1866, my compensation was $500. The compensation which I received for my services last summer amounted to $1,400. The chief, Batiste, had the power of attorney and the contract, and he simply employed me to assist him in getting those matters attended to here and through the Departments.

Q. What time did you get there at that place?—A. I got to Seneca, which is just outside of the reservation, the second day before the payment, in the afternoon.

Q. Were you present at the speech made by General Blunt the day before the payment?—A. I was present at a talk which took place between General Blunt and the commissioners who were present, and heard the whole of it, I think.

Q. Were you present at the speech which was made in the presence of the Indians and the commissioners by General Blunt?—A. I suppose I was present at the matter referred to. It was not a regular set speech that was made.

Q. State what was said in that speech or talk by General Blunt?—A. It was more in a conversational way than in the way of a speech. General Blunt got the commissioners together. The Indians were waiting for Williamson, who was expected that day, and consequently they had all gathered there. My memory has not been refreshed since the time it took place, but I will state as nearly as I can recollect what took place. My recollection is that General Blunt called the commissioners together in front of one of the cabins of the agency and stated that he had heard there was some difficulty in regard to the payment of his fee; and he then went on and stated that he had a contract (they were all sitting at the time in a circle, and a number of Indians listening) with the Indians to procure them compensation for property of theirs lost and destroyed during the war; that he had a contract for a fee of one-third of what might be recovered; and that the contract was made with the full knowledge of the parties who had signed it, and also with the knowledge of the Government agents and the Government officers; and that he had assurances from the Indians that they were still entirely satisfied with the contract. Mr. Hoag, the superintendent, and Mr. Lang, who I understood to be of the commission, objected that the price agreed upon was exorbitant and such as the Indians ought not to pay. There was considerable talk back and forth between General Blunt and the commissioners, the purport of which was that the commissioners objected to the amount of the fee, or to any fee at all being paid, while Blunt claimed that the services which he had rendered would not be more than paid for by the fee; that he had expended a great deal of money and of time; that the fee was contingent; that he had taken all the risks and made all the expenditures; and that he was satisfied that he ought to have the contract carried out according to its terms.

Q. Do you recollect anything further that was said there at the time? State all that you recollect about the talk.—A. I think I have stated the general outline of it.

Q. Did General Blunt state at that time how much money he had paid out?—A. No, I do not think he stated specifically how much money he had paid out.

Q. Did he say how much he would still have to pay?—A. No, he did not say so specifically. He said that he had to pay out large sums.

Q. Did he state to whom he had to pay them?—A. No, he did not; but I remember a little incident which took place at the time, in which one of the commissioners jumped at the conclusion as to why he had paid it when he stated that he had paid out large sums. That was Mr. Lang.

Q. What did Mr. Lang say?—A. General Blunt made the remark that he had to pay large sums in order to get the appropriation through. The old gentleman made a remark something to this effect: "Yes, he had to pay it to members of Congress, to hire them to put the thing through, the members of committees, &c.," and he went on to moralize on that by saying that it was an awful state of things, when Blunt interposed and said that he had paid nothing to Congressmen, but that he had paid others who had assisted him in presenting the matter to Congressmen.

Q. Did he state who those other parties were?—A. No, sir.

Q. Were you present next day when the payment was made?—A. I was present when the payment commenced, and I staid until it was found out that the whole thing could not be completed that day.

Q. How was the payment made? Describe the process.—A. As I recollect it, the payment was made at a long table by Mr. Williamson, who had his money in packages. He had the names of the claimants on a list before him; and Mr. Jocknick had also a list. The names of the Indians on the list were called as they occurred, and the Indians were called by the interpreter at the door. The Indian came in, and the amount to which he was entitled was announced to him, and interpreted to him if he did not understand English, and then it was placed in his hand by Mr. Williamson, and he was told that that was the amount to which he was entitled.

Q. Did anybody else handle the money except Williamson and the Indian?—A. Not until the Indian had it.

Q. What did the Indian do with it?—A. The Indian then carried it to another table in the same room at which the agent, Mr. Mitchell, was sitting, and General Blunt, with one of the Friends, Mr. Earl, I think, who I understood was not one of the commissioners. Mr. Earl took charge of the money and counted it, and if the agent had any claim against the Indian that amount was taken out by Mr. Earl, and then the amount that was claimed by General Blunt was counted out, and the residue was handed to the Indian by Mr. Earl.

Q. What was the nature of the claims of the agent?—A. There had been orders, given in anticipation of the payment, on a trader residing in Seneca, for groceries and supplies. The orders, as I understood it at the time, contained an agreement to pay the merchant when the money was paid to the Indians.

Q. Could the Indians count the money for themselves?—A. Not all of them; I should think that a good many of them could. I am not sufficiently well acquainted with those Indians to answer that question.

Q. What was the nature of the money?—A. Paper money—greenbacks. It was new money.

Q. At the time of the talk to which you referred did General Blunt appeal to the Indians any way as to whether they would go back on him or not?—A. No, sir; I do not recollect his doing so.

Q. Is your memory distinct as to that?—A. My memory is distinct that I did not hear him make an appeal of the kind, although such an appeal may have been made without my hearing it, because I was myself sometimes mixed up in conversation, and at such times an appeal of that kind might have been made. That matter, however, was talked about among Indians with whom we were mixed up.

Q. Did General Blunt address himself to the Indians at all in talking?—A. No, sir; I did not see him or hear him at any time address himself to the Indians. He came to the commissioners there for the express purpose of talking to them in regard to his contract, and explaining the whole matter fully.

Q. Was it not arranged that there should be a speech by General Blunt to the Indians before the commissioners arrived there?—A. I know of no such arrangement.

Q. You think that the only object of the speech was to convince the commissioners that 33⅓ per cent. was a reasonable fee for the services he had rendered?—A. I think the object of General Blunt was to satisfy them that he was dealing openly and fairly with the Indians and with their understanding, and that he was not taking any advantage of them.

Q. Did you see any powers of attorney?—A. I think I did.

Q. Were there many exhibited at that time?—A. I think there were, but I did not pay any attention to them. I did not pretend to have any participation in the meeting; I was simply a listener. I think there were powers of attorney exhibited, but whether the commissioners went into the examination of them or not, I cannot say; I did not examine them myself.

Q. Were you there in any sense to help Blunt?—A. No, sir. I desire to say that I had no interest at all with him; it was more a matter of curiosity on my part than anything else which took me there.

Q. Had you been at any previous meeting of annuities to Indians?—A. I had been to payment of other tribes frequently.

WASHINGTON, D. C., *February* 6, 1871.

THOMAS J. BUCKLEY recalled.

By Mr. CHIPMAN:

Question. Since your return to New York City, have you examined with reference to the item of $1,000 paid to your favor for flour, to which your attention was called by Mr. Lawrence, a member of the committee? If so, state what you learned in reference to it.—Answer. I found on our books that on the 7th of December we received some vouchers from Black & Story, of Montana, which were inclosed by us to the Indian Department for payment. They were indorsed by Black & Story to Buckley, Welling & Co. They were sent to us for collection. We forwarded them to Washington, and on the 27th of December we received payment of $1,000. That is the only item of $1,000 of which I have any knowledge in connection with the Indian Department, and I presume that that is the item for flour.

Q. Your firm had no interest in it?—A. No, sir.

Q. Do you know anything about the payment of a certain large sum of money by Mr. Bosler to DeWitt C. Wheeler?—A. Mr. Wheeler had been interested in the Little Rock and Fort Smith Railroad to a very large amount. In July or August, 1870, Mr. Bosler was in the store several times talking to Mr. Wheeler in reference to making a purchase of some of the bonds of that road. After he left Mr. Wheeler stated to me that he wanted to sell Mr. Bosler a lot of those bonds, and that he thought he would be able to do so. On one occasion I came into the office as Mr. Bosler left it, and Mr. Wheeler remarked to me that he had effected a sale of about $60,000 of bonds to Mr. Bosler. After that Mr. Wheeler received a check or draft from Mr. Bosler in payment of sixty thousand and some hundred dollars, which draft he handed to me. He said it was in payment of some bonds of the Little Rock and Fort Smith Railroad. That draft, I think, was drawn by Mr. Bosler on Jay Cooke & Co., of New York. I said to him that I wished he would sell out these railroads, as they were taking up too much of his time. He said that that was what he wanted to do. Instead of doing so he afterward came to me and asked me if I would not join him in an interest in the Cairo and Fulton road. I told him that I would not, and that I hoped he would have nothing to do with it. After that Mr. Denkler, Mr. Webb, and Mr. Caldwell came into the store and Mr. Wheeler went with them, and said he had bought an interest in the Cairo and Fulton road. After that Mr. Bosler came into the store and I asked him if he was interested in the Cairo and Fulton road? He said he was not, but that he wanted to get an interest in it and was not able. Still after that, along in September, he stated to me that he had sold a portion of his interest to Mr. Bosler for some $12,000 or $14,000. I told him I was very sorry to hear that he had got into it; that it was taking up too much of his time, and that I disapproved of it.

Q. Did the check come to him for that last amount also?—A. He got a check for it. I did not see that $14,000 check.

By Mr. WELSH:

Q. State whether you made any arrangement with the manufacturers of blankets to bid for them?—A. We proposed an arrangement. I believe Mr. Dobson accepted it, and afterward backed out of it.

Q. At whose instance did he back out? Did you hear?—A. I have not heard Mr. Dobson say so; I understood that it was Mr. Stewart who requested him to put in a bid himself.

WASHINGTON, D. C., *February* 6, 1871.

HENRY C. FAHNESTOCK sworn and examined.

By Mr. CHIPMAN:

Question. Are you a member of the firm of Jay Cooke & Co., of New York?—Answer. I am.

Q. Have you a dispatch sent by Jay Cooke, of Philadelphia, to you, and your reply?—A. I have.

[Witness presents the following dispatches:]

"Dated PHILADELPHIA, PA., ———— 28, 1871.

[Received at 2.57, one, January 28.]

"To JAY COOKE & CO., *New York City:*

"Send by Monday's mail to H. D. Cooke, Washington, copies and detail of deposits, drafts, and other transactions by J. W. Bosler and General Ely S. Parker, since May last, and have them certified by sub-treasurer. Answer.

"JAY COOKE.

"Dated NEW YORK, *February* 6, 1871.

[Received at Philadelphia.]

To JAY COOKE:

[Copy.] "January twenty-eight. General Parker never had any transactions with us. Bosler, now in office, has had large deposit accounts with us for two years, never asking accommodations, and is entitled to consideration accordingly. Is it proper to send details of his account?

"H. C. FAHNESTOCK.'

WASHINGTON, D. C., *February* 6, 1871.

JOHN T. BALDWIN sworn and examined.

By Mr. SARGENT:

Question. State your residence and occupation.—Answer. I reside in Council Bluffs, Iowa. I am a kind of general trader in real estate, a miller, and other things.

Q. Do you deal in any kind of merchandise?—A. No, sir.

Q. Were you ever present at any conversation between Mr. Finn and the Commissioner of Indian Affairs, at the office of the latter in Washington City; and if so, when was it?—A. I was present with Mr. Finn, I think, about the middle of June, 1870.

Q. State what passed in that conversation between Mr. Finn and Mr. Parker, in relation to a contract.—A. I think Mr. Finn asked Mr. Parker if he should continue to furnish supplies to Indians after the 1st of July. Mr. Parker replied that he did not want him to continue. Mr. Finn asked him what he was going to do with the Indians, and how he would get provisions and supplies. Mr. Parker remarked that he could not make any arrangement for supplies until there was an appropriation by Congress; that the Indians would have to hunt, or to do as they had been doing before they were getting any supplies from the Government.

Q. Was anything said by Mr. Finn with reference to a desire on his part to have another contract?—A. I do not recollect anything.

Q. What was your object in going there?—A. I went in company with Mr. Finn, to see if Mr. Parker did not want some flour for the Indians.

Q. Did you make any proposition to Mr. Parker with reference to it?—A. I simply told Mr. Parker that I had been engaged in furnishing contractors with flour for quite a number of years, and that I would like to make a direct sale to him or to the Government, in place of selling to the contractors.

Q. What was his reply to that?—A. He remarked that he was not prepared to make any contract at that time with me for flour, but that as soon as the appropriation bill passed he would advertise in the Chicago and Omaha papers, and would send me a

copy of the advertisement. I asked him where the letting would take place. He said he did not know, but that it would take place here or at Sioux City.

Q. How soon thereafter did you hear of the Bosler contract being let for beef and flour?—A. I learned it through Mr. Finn some two or three days afterward; that was the first intimation that I had of it; I then saw Mr. Bosler about ten days afterward.

Q. Did Mr. Bosler tell you that he had a contract?—A. Yes, sir.

Q. Was that before the passage of the appropriation bill which passed on 15th July?—A. It was before that; it was in the latter part of June that I saw Mr. Bosler.

Q. Did you receive any copy of an advertisement from Mr. Parker after the appropriation bill passed?—A. No, sir, I did not.

By Mr. WELSH:

Q. Did you name any price for the flour to Mr. Parker?—A. No, sir.

Q. At what rate were you prepared to furnish it then?—A. I would have been willing to have contracted for flour at about $2 50 a sack on the cars at Council Bluff.

Q. Or at the same price on the steamboat?—A. Yes.

Q. What was the average price of flour at Council Bluffs in July, August, and September, 1870?—A. It ranged at about $2 25—from $2 25 to $2 50 per sack of ninety-eight pounds.

Q. Is that a double or a single sack?—A. A single sack.

Q. Do you know Mr. Hoffmeyer, of Council Bluffs?—A. Yes.

Q. Do you know anything of a contract that he had with the Government to furnish flour at $2 15?—A. No, sir; I am a partner of Mr. Hoffmeyer; I was aware of a sale of flour made at the mill; the sale ranged at from $2 to $2 75, according to the quality of the flour; he sold some 1,250 sacks to Mr. Bosler; most of it was sold at $2 75; that was in October.

Q. Do you recollect a sale of flour at $2 15 a sack, bought on October 27 and paid for on November 29?—A. I recollect that.

Q. Do you know to what Indians it went?—A. The sale was made to Governor Campbell, of Wyoming, and was shipped part to Point of Rocks and part to Cheyenne.

Q. Have you any idea of the quantity of flour sold at that time at $2 15?—A. I think there were six hundred sacks shipped to Cheyenne and two hundred to Point of Rocks; there were three car loads to Cheyenne, and we generally put from two hundred and five to two hundred and ten sacks in a car; that would make altogether a little more than eight hundred; that was in October.

WASHINGTON, D. C., *February* 6, 1871.

Captain DE WITT CLINTON POOLE recalled.

By Mr. WELSH:

Question. The kind of sugar that is now shown you, was that the kind received at Whetstone agency under the Bosler contract?—Answer. Yes, sir.

Q. Is that what is called molasses sugar—sugar made from molasses?—A. Yes, sir; I call it dark-brown sugar.

Q. Is it made from molasses?—A. I am not well enough posted to tell you that; it is what I call coarse sugar.

Q. Before the Hutchison lot of cattle arrived there, state whether any preparations had been made for the care of the cattle at Whetstone agency by procuring hay or herders.—A. No, sir; not to my knowledge.

Q. Was it the expectation of the Texas cattle-herder that they were to be delivered immediately?—A. That is what he informed me.

By Mr. CHIPMAN:

Q. What was the quality of cattle delivered by Mr. Bosler under his contract?—A. They were a very excellent quality of cattle.

Q. How was it with the other supplies that were delivered?—A. They were all good supplies for the purposes intended.

Q. Was that sugar as good for the Indians as any other sugar would be?—A. Yes; I think they like it better than they do white sugar; it sweetens more, according to the Indian idea.

Q. Was the Indian service in any way disturbed by too great a supply of provisions at the Whetstone agency?—A. No, sir.

Q. What effect did it have upon the Indians?—A. It had a good effect; a large quantity of supplies always pleases them, particularly when they can see them.

Q. Do you know that the sugar shown you is a part of the sugar delivered at your agency?—A. I do not; it is the same kind of sugar.

By Mr. SARGENT:

Q. Is there any cheaper kind of sugar than that?—A. I do not know.

Q. Have you ever seen a more inferior kind of sugar than that?—A. I have.

By Mr. CHIPMAN:

Q. State what you know about the uneasiness of the Indians in regard to supplies.—A. There was a good deal of uneasiness existing among the Indians about the supplies; it was understood that they would run out on the 30th of June; the Indians had been so informed; a delegation of the principal chiefs had visited this city, and had understood, when they were here, that there were to be no supplies furnished after the 30th of June; they were very anxious about it, and spoke about it when they were over here, to the Commissioner and to the Secretary of the Interior, and to the President.

Q. What effect did the supplies have upon them?—A. It had the effect of quieting their apprehensions.

Q. Were the provisions growing short after the first delivery under the June contract, until the delivery under the extension of August 10?—A. Yes, sir; everything, except beef; we had an abundance of beef.

By Mr. WELSH:

Q. How long were you absent from the reservation?—A. From about the 17th of May till near the latter part of June.

Counsel for Commissioner Parker offers to prove by J. A. Morrow, to whom the contract for beef supplies to the Indian Department, dated September 17, 1870, was let, that—

1. The joint dispatch of Bosler & Morrow, dated September 11, 1870, to the commission, was sent without Bosler's knowledge, previously or at the time, as to what Morrow's bid for beef was.

2. That there will be a loss to the contractor on the Morrow contract, with the most prudent management, of $75,000 or $100,000.

Mr. WELSH objected to the offer of proof.

Mr. SARGENT. It is admitted by the committee that, if Mr. Morrow were present, he would testify as stated in the foregoing paper. The committee makes this ruling, because otherwise it would not be able to make a report at the present session.

Mr. WELSH excepted to the admission.

WASHINGTON, D. C., *February* 8, 1871.

THOMAS E. MCGRAW sworn and examined.

By Mr. CHIPMAN:

Question. How and where are you employed?—Answer. I reside in Washington City. I am a first-class clerk in the Indian Bureau.

Q. Do you remember the original letter signed by John Finn, dated June 9, 1870, offering to furnish beef to the Indian Bureau?—A. Yes, sir.

Q. Examine the letter now shown you and see if it is the orignal letter.—A. Yes, sir; that is the letter.

Q. Was it signed by John Finn in your presence?—A. It was written by me at his dictation, and signed by him in my presence.

Q. The letter now shown you is the original letter, and was taken from the files of the Indian Department?—A. Yes, sir, and was written in the Department.

The letter was read as follows:

"WASHINGTON CITY, D. C., *June* 9, 1870.

"SIR: I have the honor to state that I have a large number of American and Indian cattle, left over from my late contract at the Winnebago Indian agency, which I propose to sell to the Indian Department for the use of the Sioux Indians at the Whetstone agency, at the following prices, viz: American cattle from 4 to 7 years old, at 6¼ cents per pound, gross weight; Texas or Indian cattle at 4¼ cents per pound, gross weight; said cattle to be delivered at Whetstone agency or reservation, as may be required, until the next contract is awarded.

"I am, sir, very respectfully, your obedient servant,

"JOHN FINN.

"Hon. E. S. PARKER,
"*Commissioner of Indian Affairs.*"

WASHINGTON, D. C., *February* 8, 1871.

E. S. PARKER, Commissioner of Indian Affairs, recalled.

The attention of the witness being called to manuscript page 14 of his testimony, he states that he desires to add in addition thereto that he knew of no protest against receiving the beef having been made.

The attention of the witness having also been called to the following question and answer:

"Question. Explain whether you talked with him (Secretary Cox) in regard to supplying the Indians, as provided for in the contract of June 17.

"Answer. I had frequent talks with him in reference to entering into this contract of June 17, and he was aware of the whole of it;"

He adds: "I do not want to say on the record that he was aware of the whole of it, but that he was aware generally of the transactions which resulted in the contract of June 17."

WASHINGTON, D. C., *February* 8, 1871.

General WILLIAM MEYERS recalled and examined.

By Mr. WELSH:

Question. State briefly the circumstances relating to the proposal of J. E. Boyd, of Omaha, so far as relates to his bid for beef under the contract of September 12.—Answer. In the early part of September John McCormick, of Omaha, sent to my office an envelope containing a bid, with the request that I cause it to be sent to General Parker's office on the day of the opening of the bids for beef. I promised that the matter should be attended to. I handed the package to my chief clerk, with special instructions to take that bid to the office on that day. On the day of the letting, some time in the afternoon, Mr. Taylor, of Omaha, came to my office and told me that Boyd's bid had not been read. I then sent for my chief clerk, and on inquiry found that he had neglected to send the bid to the office. I immediately sent him to the office to see General Parker to state the omission, and to request that the bid be considered and read. The contents of the package I was not aware of, nor did I know in whose name the bid was made. My clerk returned and informed me that the bid would not be considered, and also that it was not the lowest bid. That is all I know about it.

By Mr. SARGENT:

Q. Can you state the hour it was first ascertained that the bid had not been sent?—A. I cannot definitely. It must have been some time after one o'clock. It was after the bids had been read, because Mr. Taylor was present when the bids were read.

WASHINGTON, D. C., *February* 8, 1871.

J. W. BOSLER recalled and examined.

By Mr. CHIPMAN:

Q. I call your attention to manuscript page 20 of your deposition, where you have crossed out in pencil the following: "But that, if it did, the President would convene Congress in extra session and ask it to make an appropriation." What have you to say in regard to that expression?—A. That, since I have testified, in considering it, I conclude that I got that information through other parties. It was a general report, among parties familiar with the matter, that Congress would, under the circumstances, be convened. I do not think I got it in this conversation. I am satisfied I did not.

By Mr. WELSH:

Q. How many other partners are in the contract besides yourself and Mr. Morrow?—A. No one but myself and Mr. Morrow. When Mr. Morrow and I went into this agreement he told me he had parties with him, but he is the only man who is known to me, although I know that other parties are in it.

Q. What interest has John McCormick?—A. I do not know. I know that Morrow and his friends represent half the contract, and I have understood that McCormick has an interest, but what interest I do not know.

By Mr. CHIPMAN:

Q. Does the paper now shown you show the Chicago price current for cattle running from June 15 to June 30?—A. Yes, sir.

Q. Are the prices mentioned here for cattle the gross weights?—A. Yes, the gross weights.

[The statements of price current referred to are appended to the testimony.]

Q. Would or not the prices along the Pacific Railroad bear any relation, and if so what, to the Chicago prices?—A. They would be governed entirely by the Chicago prices. In fact, that is the market which controls the prices for all the country west of Chicago.

By Mr. SARGENT:

Q. Are Texas cattle designed to fill contracts at the Indian agencies on the Upper Missouri River brought from Chicago?—A. No, the Texas cattle are driven up west of the Missouri River to certain points, one is Abilene and another Schuyler. The Texas cattle are collected at these two points, and from there shipped to Chicago.

Q. Then the value of these cattle at Abilene is obtained from Chicago?—A. Yes.

Q. But the price at Chicago would be greater than that at Abilene?—A. Yes, and greater than that at Schuyler. It would be enhanced by the cost of shipping from these points to Chicago.

Q. In filling any contract made with the Indian Department to deliver beef cattle at the reservations on the Missouri River, would you go to Chicago to buy these cattle, or would you buy them at Abilene and Schuyler directly from Texas?—A. I will give you my own experience in this case. I went to Schuyler and then came back to Chicago and endeavored to buy cattle there and get the best rates I could from the railroad company. I then made contracts to buy the cattle delivered, and they were purchased at Schuyler or in that locality.

Q. Had these cattle been shipped to Chicago and back again to Schuyler?—A. No, sir.

Q. Then the price current at Chicago is not an unfailing guide in regard to the price of beef cattle delivered on the Missouri?—A. No, sir; it is not.

By Mr. WELSH:

Q. Is it not usual to send the larger cattle to Chicago and the smaller ones to the agencies?—A. No; there were no larger or better cattle delivered in Chicago than those I furnished under this contract. They were from four to seven years old and of the best quality.

WASHINGTON, D. C., *February* 8, 1871.

ALVIN C. LEIGHTON sworn and examined.

By Mr. CHIPMAN:

Question. State your residence and occupation?—Answer. I reside at Omaha. I am a merchant and trader.

Q. How long have you been engaged as a trader?—A. I have been in business in Omaha only a year.

Q. Have you had occasion to carry goods through the Indian country west of the Missouri River?—A. Yes, sir.

Q. State what per cent. of difference you would make in filling a requisition to deliver goods at the Indian agencies along the Missouri River, extending up as high as the Grand River agency, and delivering them along the line of the Pacific Railroad?—A. I have never delivered goods in that country, but I consider the risk a great deal more. I would consider it at least a hundred per cent. in advance of delivering them on the line of the railroad.

Q. Why would you consider the risk greater?—A. From my experience in delivering goods in the Indian country, I would require at least one hundred per cent. more for delivering them in the country you speak of than along the line of the Pacific Railroad, whether cattle or anything else.

Q. Do you know the dangers that are involved in driving cattle through the Indian country?—A. I do, for all kinds of stock. I have been in the Indian country ever since posts have been established along up there. I was at the Powder River post, and in that country until the abandonment of that post.

By Mr. SARGENT:

Q. Have you ever bought and sold cattle?—A. No, I never had anything to do with cattle.

Q. And never had any delivered in that way?—A. No, sir.

By Mr. CHIPMAN:

Q. But I understand that you know something about the risks that are involved?—A. Yes, I have never driven cattle, but I have driven horses and mules, and am familiar with the risk attending the driving of any description of stock.

Q. On what data do you make your estimates?—A. I make them from my own experience in driving horses and mules, and in supplying any kind of goods.

APPENDIX.

House resolution, December 12, 1870.

Resolved, That the Committee on Appropriations be directed to inquire and report to this House what effect, if any, has been given to the following provision of the act "making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1871, and for other purposes," namely: "It shall be the duty of said board of Indian commissioners to supervise all expenditures of money appropriated for the benefit of Indians in the United States, and to inspect all goods purchased for said Indians in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commission in making purchases of such goods." Also, to what amount moneys have been expended on goods purchased in disregard thereof; also, whether the contracts for the purchase of flour or beef cattle for the Indian tribes on the Missouri River have been corruptly or improvidently made, or for greater quantities than required by the service; also, to investigate the charges of fraud and improvidence against the Indian service made in the report of William Welch, esq., to the Secretary of the Interior; also, whether any portion of the sum of $90,000 appropriated in said act for the Quapaw Indians has been paid to other parties or diverted from its intended use; and that they have power to report at any time, and send for persons and papers.

PHILADELPHIA, *December* 7, 1870.

DEAR SIR: During the last month I visited and conferred with the representatives of twelve tribes of Indians residing on the Missouri River up to the Cheyenne reservation, nine miles above Fort Sully. The President of the United States claimed and obtained the aid of missionary associations of the Protestant Episcopal Church in civilizing and Christianizing most of the Sioux Indians in Dakota Territory. Five agents were nominated by these associations and appointed by the President. The chief object of my visit was to inform the Indians of the beneficent disposition of the President toward his red children, and to give the new agents a favorable introduction, with such advice and assistance as they will surely need in their arduous and self-denying work. The Rev. Samuel D. Hinman accompanied me, rendering most efficient service by his thorough knowledge of the language and habits of the Sioux Indians, to whom he has ministered for ten years with eminent success. We first visited the Yankton Sioux reservation, about sixty miles above the city of Yankton. These Indians number from 2,000 to 2,500. They were made hopeful by the announcement that their Grand Father, as they call the President, had invoked the aid of the church in caring for the Indian, and that hereafter the Government would be represented among them by Christian people. Although this tribe has been forty-five years in amity with this Government, often fighting for it against other tribes of Sioux, yet, by the non-fulfillment of promises, it had, before the establishment of the Christian Church there last year, concluded that all white men were liars, except the missionaries to the Santees and those Christians who sustained them. We reached the Yankton reservation on Saturday evening and chanced, in visiting by moonlight a cluster of tepees, to enter one that was owned by a member of the Presbyterian Church. It was cheering to hear that Christian Indian, so lately a heathen, uniting with the Rev. J. W. Cook, the Episcopal missionary, in singing the praises of our God and Saviour in the Dakota language; the bright fire in the middle of the tent enabling them to read, and us to look with gratitude on the strange scene. From an adjoining tepee we heard the groans of a child dying under the infliction of heathen rites; and presently, as his spirit passed away, there arose a most piteous wail from the whole camp. While these fearful shrieks of the hopeless heathen were still sounding in our ears, we were made hopeful by the strains of praise that came from the Episcopal chapel.

The Santee Christian choristers, after having walked some forty miles that day, were in the chapel chanting and singing, to prepare for the morrow's service. On Sunday morning the contrast between heathenism and Christianity was equally striking. The day was very cold, and the wind furious; yet the heart-broken father and his adult son, both naked, except a girdle about their loins, marched slowly past the chapel,

their heads bent, and their bodies covered with earth, wailing piteously. This occurred just as numbers of Indians, warmly clad in civilized garments, or wrapped in their new blankets, were wending their way to the chapel to unite with us in public worship and to listen to words from the book of life. The chapel was filled with chiefs and Indian soldiers and others; the men outnumbering the women, all seeming reverent and attentive worshippers. A few of them remained after the close of the service, to witness the celebration of the Lord's Supper by the Christian Santee Sioux, and by the whites, including some of the new agents.

Our council with this tribe on the following day was very satisfactory; their desire for civilization being so strong that it pictured to the minds of all who were present a bright future for this long-neglected people. Their noble old head chief, Strike-the-Ree, was so warmed up by the occasion that in his speech he manifested all the fire of youth.

A number of these people have already built houses in anticipation of the division of the land. Out of the 425,000 acres of land included in their reservation, only 14,000 acres have yet been surveyed into 80-acre tracts; no more land suitable for cultivation having yet been found. As all Indians can take up 160 acres of good land outside of their reservations, there does not seem to be any propriety in giving them less than 80 acres within; therefore the reservation should be extended. The Yanktons were, by persuasion or coercion, sent from the broad, fertile bottom land of the lower Missouri to a point where the barren chalk bluffs approach the river very closely. Surely this nation will not begrudge to the Indian the narrow strip of arable land on the east bank of the Missouri, as there are few if any instances of success by white men in tilling this soil, so subject to drought. Farming there is a mere cover for keeping a whisky ranch, or for illicit traffic in supplies stolen from Indian reservations by dishonest employés.

At the Yankton reservation we were much pleased with the interest manifested in the church and in the school, which is attended by adults as well as by the young. A Christian lady, trained in teaching and in nursing, accompanied me from Philadelphia to strengthen the mission to the Yankton Indians, and another member of the same Protestant sisterhood will soon join her. With an adequate number of such faithful women, thoroughly trained to illustrate to the heathen the power of Christianity by teaching and by ministering to their bodily ailments, our holy religion will soon displace the superstitious rites that are fast losing their influence over the heathen people. One of the chiefs asked that his son might live at the mission-house to prepare for a still higher calling than that of his father. The lad evinces much earnestness and indomitable perseverance in mastering his lessons; taking his books away with him and asking questions from all who can throw any light on the new language that he is determined to acquire. Several of the head soldiers, as the chief warriors are termed, are docile pupils, and in passing through the school one of them showed me his copy-book in which he had just written "Walking Elk," his English name. This head soldier and four others asked the privilege of accompanying us four days' journey up the Missouri, to prepare the way for our mission by assuring their brethren that we were bearers of good tidings from their beneficent Grand Father, the President, and that we were also the Christian helpers who had so largely benefited the Santees, and who were conferring like benefits upon the Yanktons.

At the rude ranch where, at the close of along day's journey, we stopped to pass the night, these men conferred with us on the details of our plans. They were thus enabled to impart to other Indians higher confidence in our Chief Ruler and in ourselves than if told only by the lips of a white man. This voluntary service, undertaken by men who, owing to personal bravery, are the chief leaders of their people, seemed like a providential preparation for our mission; but the following occurrence appeared to us to bear a still stronger mark of Divine interposition in our favor. Wabasha, the wise Christian head chief of the Santees, had invited Spotted Tail and Swift Bear, the Upper Brulé chiefs, to visit his tribe and to be his guests. Swift Bear, who is still mourning deeply for the death of his son, could not leave home; but Spotted Tail accepted the invitation, taking with him eleven warriors and the wives of two of them. They had left many of their illy-clad people in tattered tepees made of the thin muslin sheeting fraudulently sent them in former years, their little ones so poorly clad as to make them victims to the winter's cold. They also left their young men either chafing under the restraints from hunting the buffalo and other game, imposed upon them by the Government, or becoming slothful and vicious by being fed without any incentive to work. On the Santee reservation they did not see one tepee, every Indian being comfortable in a house built of cottonwood logs, with a stone chimney, or a cooking stove that requires only one-third the fuel needed in a tent. The children were comfortably clad; many of them attending Sunday and week-day schools, and growing up intelligent and thrifty. The young and old men, well dressed in civilized clothing, many of them owning wagons as well as horses, were contented, industrious, and hopeful. They did not see one person under the influence of whisky; neither did they hear any complaints on the part of the chiefs that their people were addicted to drunk-

enness, gambling, or other vices. No United States soldiers were near them, and a small number of Santee policemen were able to keep perfect order on the reservation. These Brulés and Ogallallas drank in all this and more, without manifesting any surprise, or uttering a word until they met the Episcopal missionary with the chiefs and headmen, at a leave-taking conference. They knew that the Santees were formerly quite as blood-thirsty and thriftless, as fond of whisky and paint and feathers, as themselves, and that they had suffered still more from want of faith by the Government. Wabasha and the other chiefs and headmen assured their delighted visitors that, under the Great Spirit, they owed their present elevation and future prospects to the Christian ministers and teachers and the sympathizing friends who had shown the Santee the better way of life. In confirmation of all this, they saw school-houses and two churches built by Christian people and supported by them, without calling upon the Government to appropriate any of the Indians' money. These men also saw the place where a beautiful Episcopal church, mission house, and hospital had been crushed and swept away by a whirlwind five months before. Near the same spot they saw, almost completed, a pile of still more appropriate and commodious buildings, the voluntary offerings of sympathizing Christian people. As the Santees are receiving less aid from the Government than the hostile Indians, these visitors were the better enabled to realize the truth of what had been told them.

They then spent several days with the Yanktons, seeing there the beginnings of the same good work that they had witnessed at the Santee agency. Some of the Yanktons, as they saw, had adopted the dress and habits of civilized life, building houses, purchasing wagons, and tilling the ground successfully. Two of the Yankton chiefs, with their adherents, had cut and hauled logs, and had performed the rougher work in erecting a building at each extremity of the reservation for a school-house and chapel. You can hardly understand the value of such a visit to us and to the cause, the more especially because of the presence of the eleven braves, who in some important respects have an inflence beyond that of hereditary chiefs. It is well known that Spotted Tail made a solemn and binding pledge to a much-beloved daughter, when she was dying, that he would never again fight the white man, but that he would ever be his ally. His great difficulty is in retaining the confidence of the young warriors when they are, or consider themselves, unduly restrained or unfairly dealt with by the Government. The non-fulfillment of treaty stipulations and promises made by authorized Government agents has placed Spotted Tail and other friendly chiefs in an unenviable position. Standing Elk, a Brulé chief, whose friendship to the whites was certified to by General Sully, by the president of the peace commission, and by others, handed his papers to me, with the ironical request that I would give them back to the men who wrote them, as he had carried them long, but found them to contain only hollow promises. I was compelled to take the papers, but we endeavored with some success to inspire this man and other Indians with the hope that President Grant would be a man of deeds as well as of words.

Marpeya Najin, (Standing Cloud,) an hereditary chief of another tribe, handed me a large silver medal that had been worn by himself, by Hitika, his father, and by Shawala, his grandfather, to whom it was given by President Jefferson in the year 1801. Standing Cloud desired me to present it to President Grant, in exchange for a medal bearing his likeness. The Jefferson medal bears on the one side the likeness of the then President, and on the other side a pipe and tomahawk, with men's hands clasped together, the motto being "Peace and Friendship." The Indians seem to have some glimmering of hope that, with the help of the church, their present chief ruler will be able to fulfill this long-delayed promise. Before leaving the Yankton reservation John Ree, a nephew of the great chief, and a leader in civilization, handed me a medal struck off at Lancaster in the year 1805, bearing on one side a representation of General Washington, and on the other an Indian, with the motto, "The land was ours." He desired a medal of President Grant, and also asked for an American flag to place on the house that he has just built, when he convenes the band of young men, who, with him, have adopted the dress of the white man, and stand pledged to promote Christian civilization among their people. He wants his fellow-pioneers in this work to discuss and, if need be, fight under the folds of the stars and stripes.

From the Yankton reservation we determined to proceed at once to Cheyenne, the extreme point of our mission, as at this season snow storms often sweep with fearful violence across the high prairie bluffs over which we were obliged to travel, and places of shelter are only to be found at distances varying from twenty to forty miles. There being no suitable conveyances for hire, I applied, under an order from the Secretary of War, to Lieutenant Colonel E. S. Otis, the commander of Fort Randall, for transportation. That brave soldier and courteous gentleman not only provided us with an ambulance, but also entertained us hospitably, furnishing us supplies for our journey out of his private store. He offered us a military escort, such as accompany the paymasters who pass over that route. We declined it, having a belief in the extraordinary intuition of the Indian, by which he so quickly distinguishes the friend from the foe; and, although we were without weapons of defense of any kind, we had by night and by

day, during the entire trip, as high a sense of security as we ever have in the most civilized portions of our country.

After four days' journey we reached Fort Sully, where Colonel Stanly, that distinguished soldier and intelligent gentleman, insisted on our being his guests. The deep interest of Colonel Stanly and of Lieutenant Colonel Otis in the Indians, and in their early civilization, if placed under favorable circumstances, confirms the opinion that I have often expressed, that many of the officers of the Army, who are the most intelligent in Indian affairs, are among the best friends of the red man. A subsequent interview with General Augur, at Omaha, served still more completely to refute the slanders that are too often heaped upon Army officers, terming them Indian exterminators. The Indians located near Fort Sully not only respect Colonel Stanly, its commander, but they look to him as to a father and sympathizing friend. We saw at his house "The Fisherman," an Indian of the Two Kettle band of Sioux, who is an industrious wood-chopper, to whom the colonel had often made small advances of money when business was dull; in every case the money was repaid to the last farthing. We were moved by a description of the sympathy and tearful grief of this Indian when death entered the family of his friend and benefactor.

Cheyenne.—Colonel Stanley and Major Whistler accompanied us to this reservation, also promising their valuable assistance to the new agent. The location of the Cheyenne agency is very bad, and another site should be selected immediately, as the Missouri River is fast washing away the ground on which the buildings stand.

Many of the chiefs and principal men of the Sans Arcs, the Two Kettles, the Minneconjous, and the Unkpapas, Sioux Indians, after an elaborate preparation with paint and gewgaws, met us in a council room that was ornamented with Indian scalps. Our Yankton Sioux, who were present as spectators merely, had, fortunately for our mission, prepared the way for us by a private interview with the leading men of these tribes. Being the representatives of the church as well as of the Government, we here, as often elsewhere, invoked the blessings of God on our deliberations in a brief prayer, that was translated by the interpreter. In introducing the new father, as they term their agent, we told the Indians that he had been sent by the church in answer to prayer, and, therefore, that the Great Spirit would help him to be a good and kind father to them as long as they were obedient and industrious. They were told that the new agent came without defensive weapons of any kind, trusting himself entirely to the Indians as his children. They were, however, made to understand that if any of them behaved badly to him, the soldiers on the reservation or at Fort Sully would punish them still more severely, because the wrong would be entirely unprovoked.

These Indians, and all others with whom we conferred, were made to understand that their Grand Father at Washington had a red man's heart; therefore he feels for them, and will drive away from the reservation all who have been wronging their daughters or depriving them of the full benefits of appropriations made them by Congress. We assured them that other members of the great Sioux nation had been lifted above the temptations to gambling, idleness, and drinking, to which the wild Indian is so prone; and that such were fast preparing to claim the rights of citizenship, now accorded to the red man as fully as to the white. We told these Indians that it is the special wish of their Grand Father and of the members of Congress who vote all the money that comes to them, that Indians who work by caring for cattle, by chopping wood, by tilling the ground, or by mechanical pursuits, should be fully fed, and have coffee and sugar, whilst the lazy and dissolute should be barely kept from starving. These Indians had specially desired that the council should be held outside the stockade, in a large room surrounded by windows, that their wives and daughters might hear the good tidings that Christian men were bringing them from their Grand Father at Washington.

With such surroundings, we took especial pains to make these Indians understand that good white men protect the virtue of wife and daughter as fully as they do their own life, and that the Indian can never rise to a high position until he acts in this respect like good white men. They were assured that the new agent, their father, would help them in this and all other things by which their position could be improved, and that he would compel all employés on the reservation to teach the Indian and to aid him in every effort to become industrious and self-supporting. They were told that they should have schools for their children if they desired them, and, if they wished it, a minister would be sent as soon as such could be procured, but that much time would be required for him to learn their language.

The chief, Long Mandan, gorgeously appareled, was the first speaker in reply. He reverently proffered his lighted pipe to the Great Spirit, then presented it to us, and afterward smoked it himself, saying that he wanted all to be bound by the same sacred influence to speak words of truth only. He and the other chiefs and head soldiers who followed him spoke in good temper, and manifested gratitude that their Grand Father's heart had at length been turned toward them; that he had sent a man to them who could go back and speak in Washington to the ear of their Great Father, and that even the agent, their father, could now write to Washington instead of to the

governor of the Territory, as hitherto. They cordially agreed to all that had been said to them, complaining, however, that soldiers had been sent to live on their reservation when Fort Sully was so near; that the right of petition had been virtually denied them, their words never reaching the ear of their Great Father, and that several items in their treaty stipulations had never been fulfilled. The promise made by the peace commissioners, that loyal Indians should have such guns and ammunition as would enable them to hunt the deer, antelope, &c., if they would abandon their distant buffalo hunts and their nomadic life and settle upon designated reservations, has not yet been fulfilled. The wild and hostile Indians get arms and ammunition from traders in exchange for their furs, while many of the best friends of the whites are degenerating into bands of loafers. The wild Indians, perceiving the advantages that they have over their tamer brethren, only come into the reservation for a short time when they are pinched with hunger. The following letter from Colonel Stanley embodies the sentiments of all the military officers on the frontier with whom I conversed:

FORT SULLY, D. T., *November* 19, 1870.

DEAR SIR: You having done me the honor to ask my opinion as to the advisability of issuing or selling hunting guns and ammunition in limited quantities to the Sioux Indians, I reply that I would issue them, or permit the Indians to trade for them under restrictions, without hesitation. If the Indians intend mischief, they will do all with the bow and arrow they would with the gun. The withholding ammunition is exasperating to the Indian and alienates our best friends; and through the contraband traders of the British possessions, of Montana, and of the Platte, the really hostile and mischievous Sioux get any amount of ammunition, and laugh at the friendly Indians, telling them, "This is your white friend; he is afraid to trust you with a load of powder."

It is asking too much of an Indian to tell him he must pitch his "tepee" close to the agency, and settle down to do nothing but eat. The Indian's mind, as the white man's, seeks some employment; as yet we have given him none; we have not given him stock; we have not started farming, and hunting is the natural outlet to the activity and the restlessness of the Indian. I know that even the old men look upon the fall hunt as being quite as essential to their health as do our city-tired people a trip to the sea-shore.

Until the present year ammunition has been a part of the annuities, and I have never seen or known any harm to come of it.

The other day The Grass, an excellent man, chief of the Blackfeet Sioux, came from Grand River to see me. He said, "My friend, as I came down I saw hundreds of antelopes on the hills. I could only look at them. I had nothing to shoot one for my dinner. I am fifty-two years of age, and have lived near the whites and been their friend all my life. I have seventy lodges, all friendly. What have I done, my friend, that the Great Father treats me so?" I had nothing to say; but when he went back he had ammunition. Of course ammunition should be sold under restrictions, the trader making a return every Saturday to the agent or commanding officer of the fixed allowance sold only to heads of families during the week. Such has been the plan heretofore, and it seems to have worked well. If guns (trade rifles and shotguns) were issued to Indians whom we know, and a promise required of the Indian that he would not trade off or part with his gun, he would keep his promise, so that we could keep the guns in the hands of our friends. Finally, we cannot expect the Sioux to believe in us unless we show some confidence in them.

I am, very respectfully, your obedient servant,

D. S. STANLEY,
Colonel Twenty-second Infantry.

Mr. WILLIAM WELSH, *Philadelphia, Pa.*

Yanktonnais and Lower Brulé agency.—The agent for these tribes of Indians has thus far resided at Crow Creek, on the east bank of the Missouri, where the Yanktonnais, or at least a comparatively small band of these friendly Indians, reside. Our conference with them was satisfactory but sad, owing to the recent death of Bone Necklace, their principal chief. These Indians long for a minister, for schools, and for instruction in agricultural handicraft, with such appliances as will enable their people to draw support from the soil instead of being fed like tame cattle. They have long resided on the east bank of the Missouri, but it is very doubtful whether they can ever draw sufficient support from that region of drought. The women here have been more demoralized than elsewhere by the immoral conduct of those whom the Government has placed over them. The Indian's idea of the married relation gives the designing white man much power for evil. At our council with the Yanktonnais we were much touched with the tone of sadness that pervaded all who were present, but especially the brother and the two sons of their late principal chief, whose new-made grave we had seen marked on the hill-top by a little white flag. His sons said in council that their father

had heard that Christians were coming to bring relief to his people, and he had longed to live that he might take them by the hand and welcome them. It cheered us to learn that the tidings of our coming had comforted the dying man, by giving him hope as to the future of his people. We clambered up to his resting place just as a cloud cast its dark shadow upon the grave, but all beyond the grave was made bright by the light of the sun. The wife of the chief had been buried beside him, she having died a few days after him, as is said, of a broken heart. On one side of the grave the ground was covered with blood, and there lay the stone on which his children sharpened their knives to puncture their arms and legs, that a suffering body may sympathize the more fully with a troubled spirit.

The Lower Brulé sub-agency is on the west bank of the Missouri River, about nine miles below Crow Creek. Ferrying here is very tedious, owing to sand-bars, and yet from defective arrangements all the meat, and in some years all the other stores, have to be taken across this miserable river. The agency should be on the west bank of the river, as the Indians are far more numerous there, and it is most important that the large roving bands of wild Indians should be brought under some control. The Lower Brulés are so called because they have for a long time frequented the banks of the Missouri, while the Upper Brulés have usually ranged toward the sources of the streams that empty into that river.

At our first conference with the Lower Brulés, speeches were made by their four chiefs, Iron Nation, Medicine Bull, The Man who Killed the White Buffalo Cow, and Little Pheasant. These Indians seem earnestly anxious for Christian civilization, begging for teachers and missionaries. Iron Nation, the first speaker, said that they had tidings of our coming, and it seemed to them that at last a great light was about to shine on the pathway of his people, who had so long groped on in darkness. He prophesied that bad white men will oblige his people again to pass through deep waters, yet they would not be hopeless, now that Christian people had offered to be their friends. They complained, very properly, that their father the agent resided on the other side of the river and rarely came to see them. They thought that their Grand Father in Washington could not know where the Lower Brulés were, or he would give them an agent to reside among them, that he might aid in bringing their wild and hostile brethren into more peaceful relations with the Government. The hostile Indians were in a camp about forty miles out, and they look upon those on the reservation somewhat as we do upon wild animals who have been entrapped, caged, and fed.

The oxen were slaughtered by them on the opposite bank of the river the day we arrived there. The power of the bow, when in the hands of an Indian, was shown by completely burying the arrow in the body of the ox. This mode of killing the animal, or shooting him with a rifle-ball, is adopted to prevent the loss of blood. The chiefs of the Lower Brulés asked that beef might be issued to them oftener than once a week, as, in their idle life, Indians eat voraciously after three days of fasting, and thus consume all their rations of beef by the fourth day after its issue. We persuaded the new agent, instead of slaughtering the cattle on the opposite bank of the river, to give them a month's supply of live cattle, taking their pledge that they would only kill a ratable proportion on each alternate day. Unless we doom this people to destruction, we must make them provident instead of continuing to promote improvidence among them, and to destroy all self-respect. As long as the wild Indians see that those residing near the agencies are degenerating, we can hardly expect them to come in. Some of the wild Lower Brulés are lawless free-booters, stealing horses and mules from the neighboring tribes and from the Government. Capturing these men is well nigh an impossibility, for the Government has no mounted soldiers on the Missouri River. As soon as the peaceable Indians can illustrate to them the advantages of civilization, most of their brethren will be glad to come in, as game is getting scarce; and the few lawless spirits can then be readily restrained by their own people. The Lower Brulés, having long been near the Missouri River, prefer to remain there, although the soil is better and there is more rain in the upper portions of the reservation near the Black Hills. These Indians complained that a company of soldiers had been located at their sub-agency, although, as they alleged, they have always been peaceable. Wood in that country is very scarce; yet these troops have, without conferring with or compensating these Indians, cut large quantities of wood for houses and for fuel, and have thus far excluded the Indian from the use of the saw-mill that was theirs by treaty stipulation. Many excellent practical suggestions were made at the conference with these Indians, and the new agent, who was present, will undoubtedly adopt them so far as they are likely to be beneficial. Indian diplomacy is quite amusing to the uninitiated, but is likely to mislead those who are not familiar with their habits. The conferences with the Lower Brulés were held in the house of the sub-agent, who they supposed would be retained in office. Although in his presence they commended him to our favor, yet at a private interview after nightfall, one of them revealed his true character, which corresponded precisely with the estimate our new agent had formed of the man. These Brulés have so seldom been brought into contact with the white man, that their women are remarkably virtuous. We

passed part of the evening in the capacious tepee of one of their chiefs, conferring with him as to the condition and prospects of his tribe. It was truly comfortable, being made of dressed buffalo-skins, and, when contrasted with their muslin tents, we could readily understand why the Indian complained so bitterly of being restrained from buffalo hunting. Many o f the Indians who have been brought into the reservations were promised comfortable log houses, as they could not renew their buffalo tepees, but that promise, like many others, has not been fulfilled. The temporary barracks built here by the soldiers will, I hope, be vacated in the spring and given to the Indians in partial fulfillment of this promise. The site of suitable agency buildings on the west bank of the Missouri ought to be soon determined on, and the supplies for the coming season deposited in them.

Whetstone agency.—Here we first conferred with the influential white men, who were legally incorporated with the Upper Brulés and Ogallallas before they left their distant homes to come to this reservation at the earnest solicitation of the peace commissioners. All of them have log houses, and some already possess quite creditable farms. These white men have Indian families, and, whilst despondent as to the future of their people, they were less abstemious than they should have been. Their influence for good or evil upon the tribes with which they are connected is so great that we took much pains to make them hopeful. After a conference with their intelligent-looking children, we pleased the little ones, their mothers and fathers, much by making immediate arrangements with the zealous wife of the new agent for the early opening of a church-school. The treaty promises a teacher for every thirty children, but thus far these wards of the nation have been allowed to grow up in utter ignorance. We cannot say of the Upper Brulés what we did of the Lower, for there are many Indian women with half-breed children, in poverty and ignorance, because deserted by their fathers many of whom are men of respectability in their dealings with white people. The Church has hitherto neglected this people, grown degenerate because brought in contact with a so-called civilization which, not being restrained by Christianity, sinks in many things far below the most superstitious heathenism.

We also conferred with such chiefs and other Indians as had not gone into winter quarters up the White River. Several of these had cultivated the soil, but were disheartened because of the drought and the failure to fulfill the encouraging promises made to them. One of these men had broken twenty acres of prairie sod—quite an achievement for an Indian. They had been promised ponies if they would engage in farming, but that promise had never been kept. Thus far I had purposely avoided feasting or giving any presents to Indians, that they might the more readily understand that our mission was one of benefit to them solely, without desiring any favor to ourselves. These pioneer workers of the soil changed my course, and, although without authority, I promised that the agent would furnish a pony each to twenty of the most deserving among them. The cost will be from six to eight hundred dollars, and, unless authority is given by the Government, the draft will be made upon me. The agent writes thus to me: "The promise of ponies to those Indians who have been farming is a step in the right direction. They have promised me that they will stop drinking whisky, and will try and prevail upon their people to do likewise."

We exerted ourselves to the utmost to prevent the nefarious traffic in whisky, which was fast demoralizing this idle and hopeless people. President Grant promptly remanded back to Fort Randall a military reservation that, having been relinquished some years since, had become the abiding-place of five or six notorious and lawless venders of whisky. The War Department sent orders to Lieutenant Colonel Otis, of Fort Randall, to take immediate possession of the reservation and to send off all injurious persons. This will be done effectually, as the colonel is a fearless and faithful soldier, and he is fully aware what a den of iniquity is on that reservation. He said that if Indians had killed as many white men as have been murdered there in drunken brawls, the whole country would have been up in arms against them. If this important act of the President is followed up by the temporary withdrawal from sale of all lands on the eastern bank of the Missouri above the military reservation, the whisky traffic can be stopped and the soldiers removed, except from Forts Randall and Sully, and other important points higher up the Missouri. By occupying the few ranches necessary for the accommodation of travelers with a few trusty soldiers or other reliable persons, the whisky and all illicit traffic can be broken up, and the soldiers withdrawn in the spring from Whetstone, Crow Creek, the Lower Brulés, and Cheyenne, where they are kept at a cost of over $300,000 a year.

Opposite the Whetstone agency, the shrewd proprietor of the only ferry and of a whisky ranch had preëmpted 190 acres of land in fractional sections, giving him a mile and a half of river front. As this man could not be legally removed, and as his presence there was working ruin to the reservation, I purchased his buildings, boats, ferry, and land privileges for $1,200. The Government paid him annually a considerable sum for the use of his ferry-boats. There is an evident propriety in having the control of the ferry; but if the Interior Department does not approve of the purchase

I may dispose of it to some trader; or I will be quite willing to bear the expense for the good that I know will be accomplished by the purchase.

Before we reached Whetstone, most of the Indians had gone between eighty and ninety miles into winter quarters, on the White River; the returning teamsters report that there is there plenty of timber and grazing for stock. After Spotted Tail's return from his visit to the Yankton and Santee Indians, being most anxious to confer with us, he tarried several days, expecting that we would come direct to Whetstone. Not having been apprised of his intention to go out so far for winter quarters, we had gone to Cheyenne, the farthest point, first. He dictated the following letter to me, and asked the new agent to inform me that the letter contained the substance of what he desired to say:

WHETSTONE, D. T., *November* 15, 1870.

MY FRIEND: I wish you to send us a missionary, as I find out it will be for the good of my people, and my white relations have recommended it. We wish only to winter here on the White River. We wish to remove as early in the spring as possible to our farming reservation on the White River, near the mouth of the White Earth. We wish our white relations and our half-breeds to accompany us. It is a country abounding in timber, and the soil is good. We wish our goods and rations sent to Fort Laramie, and then would like you to pay our half-breeds and white relations what you think reasonable for freighting for us. In this way we will earn money, and learn to work, and can keep bad white men off our reserve. We wish our own people to do all the labor on our reserve, except such as they do not yet know how to perform. I wish you would continue inviting each year four headmen from our tribe, and also from that of Red Cloud. to visit Washington. We think the President is right in thinking this a good way to benefit and teach the Indians, and make them peaceable, and good friends of the whites. When we are on the White River we wish you would let our people, or part of them, go on a buffalo hunt to the Republican River.

I have three villages—one of Ogallalla, say 200 lodges; Black Bear is their chief; the Brulé Wanagi, (ghost,) 150 lodges; Red Leaf is their chief; the Upper Brulé, 225 lodges; Spotted Tail is their chief. We wish to have some of our own people to instruct each band, and also an interpreter for each. We would like to have our friend Raymond for farmer, and our friend Bissinett for interpreter. We would like to have some guns and ammunition, as it would aid us in getting skins for our moccasins, and also for our lodges. We live in a country abounding in elk and deer. We wish to have free trade among ourselves, and to have no outsiders allowed to trade among our people. Claims have accumulated against us between the years 1849 and 1857. We do not wish them paid out of our moneys. We would like large garrisons of soldiers kept at Laramie, and also on the Missouri River, to keep off bad whites and whisky from our reserve. To us whisky is death.

Your friend,

LINTE-GLESCA, (translated Spotted Tail,)
Per BISSINETT.

To Mr. WILLIAM WELSH.

The requests in this letter have been considered as follows:

First. A missionary and teacher will be sent soon after the location of these Indians has been determined on.

Second. The removal to the sources of the White River was authorized by Secretary Cox.

Third. If the white Indians and half-breeds go, Whetstone agency can be abandoned; and the present agent, who is favorably known to Spotted Tail and his people, will move out to the new agency. In the interim, the agent, with our cordial concurrence, has employed Tod Randall, one of Spotted Tail's white relatives, as he calls him, to act as sub-agent.

Fourth. As the country abounds in grazing land, it will be important, at an early period, to bring young cattle from Texas, and to use the Indians as herdsmen, until they can be taught to raise stock for themselves. Cattle, after one winter on the White River, can endure the cold of the Upper Missouri, without the loss of health or of flesh that is certain to ensue when driven directly to the existing agencies.

Fifth. I went to Omaha to ascertain the relative cost of sending freight via Cheyenne and Fort Laramie, or by Whetstone and up the White River. The mode indicated by Spotted Tail will be the cheapest and best. The officers of the Pacific Railroad, with whom I conferred, manifested a willingness to make concessions for Indians so long as they continued their friendly relations.

Sixth. It is the intention of the agent to employ the members of the tribe to do all the work that they are willing to perform, and to insist that *every* employé shall instruct the Indian.

Seventh. Spotted Tail's suggestion that the President should continue to invite four headmen from his tribe, and four from Red Cloud's, to visit Washington yearly, was

made by nearly, if not all, the other tribes, and approved of by the most intelligent friends of the Indian. The most practical suggestion is that four representative men, who have never been to Washington, be selected from each important tribe and taken together to Washington for a brief conference with the President; then to some machine shops, like the Baldwin locomotive works in Philadelphia, where 1,900 working men can be marshaled before them, and afterward to visit the Cherokee Indians or others who have progressed in civilization. This can be accomplished with little trouble and expense, if it is arranged by the Rev. Messrs. Williamson and Hinman, the missionaries of the Presbyterian and Episcopal churches, who have great influence with the Indians of the Sioux Nation. The importance of this suggestion cannot be over-estimated if the leading braves are selected instead of chiefs, many of whom have lost their influence over their tribes.

Eighth. The suggestion about guns and ammunition has already been referred to. Those of us who live in comfortable houses, and have our feet well protected, can hardly realize the importance to the Indians of skin for lodges and moccasins to protect their feet.

Ninth. Spotted Tail is right in claiming the help of garrisons in keeping off bad whites and whisky, for he has time and again been compelled to task all his powers to the utmost to prevent quarrels, begun in a drunken row, from inflaming the whole Indian nation. When he closed his letter by saying, "To us whisky is death," he doubtless remembered the day when he killed Big Mouth, the chief of the Ogallallas, who, in a drunken broil, had dogged him all day and then attempted his life.

Poncas.—When we reached their reservation, the new agent, with whom we had previously conferred, had already dismissed all white employés, except the engineer, using the Indians and half-breeds who were working well. These Indians in council evinced much practical common sense. They see that civilization is their only hope. They were delighted to learn that the church would furnish teachers without diminishing their small annuity; and they think it hard that they are never consulted about the expenditure of their money, and that no account is rendered to them of the way in which it is used. They complain that six hundred dollars of their money is taken for a physician, who comes in frequently, and whose services they never desired. With such Indians, surely there should be some conference if there is to be any effort made toward their civilization. In my report to the late Secretary of the Interior, I stated, that owing to the entire failure of their crops, the Poncas would be in a starving condition before the end of October. They were sorely tried by seeing thousands of oxen and steamboat loads of provisions pass by their reservation to feed the Sioux Indians who had been so hostile toward the white people. As the Commissioner of Indian Affairs did not feel warranted in using any money for the Poncas, except their very small annuity, I undertook to feed them with the most rigid economy. The flour furnished by the contractors cost at the reservation five cents a pound, and beef, when dressed, thirteen cents a pound. I purchased wheat at one cent a pound, with three-quarters of a cent a pound for land carriage, and had it cracked for boiling, or ground at the mill on the reservation without any additional expense. This, with pressed lard, which I bought in Chicago at sixteen cents a pound, and suet, purchased in Sioux City at twelve cents a pound, will keep this tribe in health and working condition at about one-fourth the cost of maintaining the other Indians. They ought, like other Indians, to have sugar and coffee: but I desired first to test their willingness to economize to the utmost, for it seemed wrong to stop their small money annuity, which they absolutely need to purchase cooking-stoves and other appliances of civilization not furnished by the Government. They behaved so well under the very trying circumstances in which they are placed, that I told the agent to pledge them this month a money annuity of $5 a head, say $3,750. I felt sure the Government would not withhold it, but I would not have promised it had I not been willing to make the payment in case of disappointment. A visitor must have a heart much harder than mine, to refuse a helping hand to Indians who are intelligently striving after Christian civilization, and who, in their new-born hopefulness, have already acquired sufficient strength to resist the natural temptation to strong drink. Their chiefs voluntarily confessed, to their shame, that some of their people had, since I was there in September, been induced to make reprisals of horses. They promised to use all their efforts to prevent it in future, although I must confess that human nature alone will not enable them to do it. The Government stands pledged by treaty to protect them on their reservation, and yet time and again the roving bands of Brulé Indians have stolen their horses, and they have not been replaced by the Government. When the nation does justly by its wards, these predatory excursions by Sioux, by Pawnees, and by Poncas, can no doubt be checked if proper means are used. The night after I left the Poncas, they seemed so defenseless and were in such dread of a band of Brulés that were skulking about, that the agent gave them all the ammunition that he had. The United States soldiers on the Missouri, not being mounted, are useless for any other purpose than that of defending a post.

If Indians are clustered around a fort or stockade, the demoralizing influence of sol-

diers upon them far overbalances all the advantages that unmounted men can afford in protecting property. The cattle range far beyond the reach of the soldiers, and in some instances there is but one white herder, all of his assistants being Indians, showing that they could be easily trained to protect their own property. The cost of a single company of soldiers at one of these stockades varies from $75,000 to $100,000 every year, and I became satisfied, from inquiry and observation, that well-appointed Indian soldiers, mounted on their own horses, can be trained to protect all the property at less than one-fourth of the present cost. Not being willing to trust my own judgment in this important subject, I asked a thoroughly competent and experienced officer to give me his views. As he is not the commander of a post, I do not give his name, but append his letter:

DAKOTA TERRITORY, *November* 21, 1870.

MY DEAR SIR: In accordance with your wishes that I should give you an account of my knowledge of the kind of soldiers which Indians make, &c., it affords me great pleasure to comply with your request.

Section 6 of the act of Congress approved July 28, 1866, grants authority for the employment of Indians in the Territories and Indian country to the number of one thousand, who shall receive the pay and allowance of cavalry soldiers.

In the spring of 1869 I saw a detachment of Indian soldiers at one of the military posts in the northeastern part of this Territory. They were commanded by a commissioned officer, and were also clothed and equipped in every particular like the soldiers of infantry, living in common tents, which were regularly pitched. I saw them at a general inspection. They had on the full uniform; the brasses on their hat and the scales were well cleaned and polished; their arms and accouterments were in the best possible condition; their clothing was neat and clean, and in every way they bore a presentable appearance.

These Indians belonged to the Sisseton and Wahpeton tribes of the Sioux, and, only a few months before I saw them, were roving over the prairies in the Indian garb and living in a tepee; but in a short time their mode of life was changed; they were contented and glad to wear the clothing furnished to the troops, and were proud of the full uniform, and readily abandoned the tepee for the tent used by the American soldier.

The officer in command told me that the non-commissioned officers and soldiers made excellent scouts and guards, and were always found to be reliable.

I made a trip through the northern part of the Territory last spring, and I noticed that the military had established mail stations at various points between Fort Totten, at Devil's Lake, and Fort Abercrombie, on the Red River of the North. At each one they had a small squad of Indian soldiers in charge of a non-commissioned officer, (Indian.) From my observation and by inquiry I found that they were efficient, prompt, and reliable in the execution of their duties and they had the full confidence of the officers. They were paid and placed on the same footing with soldiers, having been duly enlisted for a certain period.

I am confident that at any place in this Territory Indians may be found who can be organized into bodies, paid, clothed, and equipped, and be made excellent soldiers for guards, &c. I believe they can be made good herders, and in that capacity successfully used, and that they will make a good and effectual police.

I know by experience that the Indians in this Territory make excellent, reliable, and useful scouts to detachments of troops or parties traveling on the prairies.

Sincerely and respectfully yours,

——— ———.

WILLIAM WELSH, Esq., *Philadelphia, Pa.*

Our mission was brought to an appropriate close by spending Thanksgiving day on the Santee reservation. At their morning worship this people seemed to realize that there was special cause for thanksgiving among the Indians. Citizenship had been placed within their reach, and the President has resolved to strangle the political vampire that has hitherto sucked out much of the life-blood of the Indian. They rejoiced to hear that their less civilized brethren were longing for Christian teachers. When they sang from the missionary hymn,

> "Shall we, whose souls are lighted with wisdom from on high,
> Shall we to men benighted the lamp of life deny?"

I felt rebuked for want of zeal, as some of the very men who were present had preceded me in a missionary excursion up the Missouri River, and in some places they had borne the very first tidings of Christianity. Two otter skins, garnished with bells, that had long been used in the sacred medicine dance, were presented to me as the last relics of heathenism in this tribe.

In the evening their wise men called to confer with me, and their words were so sensible and reasonable that it seemed impossible to realize that I was in the presence of men who, ten years before, were superstitious heathen. They unanimously asked to

have their reservation placed under the care of the Episcopal Church, that the whole Sioux Nation might be bound together in one brotherhood. The Santees pleaded for this great favor from their Grand Father with the utmost earnestness, and then drew from me my pledge that I would present their plea. Last October they had a convocation composed of Yanktons and Santees, with one representative from the Poncas. The beneficial results far exceeded the expectations of the Reverend Mr. Hinman, its projector. It is now proposed to have an annual or semi-annual convocation, composed of the missionaries and teachers of the Episcopal Church, the agents nominated by it, and three or more delegates from each tribe of Indians under its charge. Such a meeting would be productive of much benefit, and will serve to stimulate the wild Indian to more strenuous efforts after civilization.

The failure to keep treaty stipulations had so exasperated the Indians a year since that Major Hearn, at Grand River, and Major Randall, at the Cheyenne Reservation, were in constant peril of their lives. These officers were so brave and discreet that they deserve an honorable place in the reorganized Army. Colonel Stanley, who watched over these military agents, commended them strongly to me. A few loyal Indians stood by them. When the wild and exasperated Indians were in the habit of menacing Major Randall, even after he had retired to rest, Frozen Foot slept by his bed, and Little Bull and Crow Feather also united in his defense. With a single exception, all the military agents did as well as could be expected under the trying circumstances in which they were placed. They had no previous preparation for such a work; they did not desire it; going to it merely because they were ordered to this unusual duty, and realizing that at any time they might be called to the military service, for which they were commissioned. There was one disorganizing influence beyond their control that disheartened some of them and irritated others. They were placed under a political governor, who was *ex officio* superintendent of Indian affairs, and he, no doubt, also was subject to like political influences. Incompetent and dissolute subordinate assistants were sent to the agencies without the consent and sometimes against the remonstrance of the agent, who should have been supreme. Salaries were paid to some of these subordinates higher than those paid to the principals who had all the responsibilities, and should have had entire management of the agencies.

Remonstrances were either not forwarded to Washington by the superintendent, or were not heeded there, because the Indian Office had not then been emancipated from political thraldom. Some of these employés acted dishonorably, and others dishonestly. In one case, during the temporary absence of the agent, one of them certified to the receipt of a larger number of cattle than the agent could find upon his return, and gave a voucher that the average weight was 1,200 pounds, when, after two weeks' good feeding, the average weight proved to be but 963 pounds. Steam-engines were sent at a large cost that were, in some instances, too small and too light to do the heavy sawing for which they were designed. These disorganizing influences, had they not been checked by the President, by the removal of the political superintendent, would have hindered the civilization of the Indian, and doomed him to perpetual beggary at a fearful cost to the nation.

There is one department that needs the powerful grasp of a master hand. I refer to purchases by contract and otherwise. It is estimated by men of large experience that a few adroit manipulators of contracts and purchases have made at least $250,000 this year from supplies to Indians on the Missouri River alone. All this and more could have been saved if the business had been conducted just as those of us who are merchants manage our own operations. Thus, 25,000 sacks of flour were contracted for at $3 50 for a bag of ninety-eight pounds, delivered at Sioux City, when the price at that place was $2 20, and ought to have been $2, as wheat was only worth from 60 to 70 cents per bushel. The bargain for freight up the Missouri was high, in about the same ratio—say 2¼ cents a pound to the nearest reservation, and 6¼ cents to Grand River. Wheat could have been purchased and ground on the reservation at one-third the cost of the present supplies. The 8,000 head of cattle required for feeding the Indians were furnished by certain contractors and others of the initiated, who virtually sublet their contracts at an immense profit to equally responsible Texas herders.

These herders took all the risk of delivering cattle to the agencies on the Missouri, being usually paid on the same voucher that draws the money in Washington. It is estimated that at least $200,000 to $250,000 could have been saved on this one item, exclusive of frauds in the count of cattle and in their weight. Congress has been striving for many years to prevent frauds by legislative checks and restraints, instead of by intrusting experienced and thoroughly competent men with the disbursement of money. Under existing laws bids are to be asked for and contracts made, instead of buying in open market. This system has virtually thrown the business into the hands of the initiated, who so successfully manipulate the whole affair that competition by the uninitiated is usually viewed as hopeless. By a system of straw bids, and by occasional purchases of the prospective profits of some skilled bidder, the contract system is reduced to a science that gave me some study during my last trip.

Bad as this system is, I am grieved to report an occurrence that I trust you will refer

at once to the Bureau of Indian Commissioners for thorough investigation and *public* report. The following clause will be found in an act of Congress, passed the 15th of last July, termed the Indian appropriation bill: "It shall be the duty of said Board of Indian Commissioners to supervise all expenditures of money appropriated for the benefit of Indians in the United States, and to inspect all goods purchased for said Indians in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commission in making purchases of said goods."

These special commissioners, who serve gratuitously, were consulted as to the purchases and inspection of dry goods, but they were not consulted or even notified of the purchase or inspection of the other goods that were bought by the Commissioner of Indian Affairs on contract and by private sale to the extent of a million dollars or more. Four hundred and fifty thousand dollars of this sum was spent for Texas cattle at 6½ cents a pound on the hoof, the highly responsible Texas drovers delivering them, without any risk to the original purchaser, at 2¾ cents a pound, or thereabouts. In some instances the Indian agent refused to receive these cattle, as he already had a three months' supply; the loss by death and shrinkage during the winter, by stampeding, and by the cost of herding, being so great that the agent would not assume the risk. He was, however, compelled to receive the cattle, to the great loss of the Government, by a positive order from the Commissioner of Indian Affairs. I was credibly informed at the agencies that bribes were offered to certify to overweight.

The vouchers in the Auditor's office reveal the fact that payment was made on receipts given by subordinates while temporarily acting under the authority of an absent agent. These certificates merely indicate the pounds of live cattle, without giving the number of the cattle or stating whether they were all weighed, averaged by weighing a certain number, or certified to by a mere guess at the weight. The certificates for slaughtered beef were evidently given before the cattle were killed.

Although the agent's report of an error or fraud by his representative was received at the Indian Office, it was not sent to the Auditor. If it came after the settlement of that portion of the purchase, it should have been sent to the Auditor before the next payment. When the tidings of these transactions reached me, I hoped that it was some trifling purchase made to meet an exigency. To my surprise, I saw immense herds of Texas cattle on the way to the reservation on the Missouri River last month, paid for November 28, at 6½ cents per pound, the sum being $155,493. Cattle for immediate delivery in the spring could have been purchased in the neighborhood at 4 cents per pound, and in Nebraska, at Schuyler or Columbus, for early delivery, at 2½ to 2¾ cents. I could furnish other details equally startling, but this will suffice to enable you to provide a remedy. These facts came before me while I was aiding the President of the United States in carrying out his policy. I feel bound to communicate them, as I know that both the President and yourself have resolved to purge the Indian Department thoroughly, that appropriations by Congress for the benefit of the Indian may hereafter impart the largest benefit to this long-neglected people.

A remedial measure was attempted at the last session of Congress, authorizing the appointment of five permanent Indian inspectors, and but for the opposition of one Senator it would no doubt have become a law. If Congress will coöperate with the President this year, by appropriate legislation, enough money may be saved from the appropriations to promote every civilizing process among the Indians and to stock their farms so fully that in a few years most of their supplies can be drawn from their own farms and herdsmen. Of course this is not to the interest of the contractors, or of those who participate with them in their large gains. Some of their adherents, and others who are disappointed, have notified the Indians that the Senate will not sustain the President in his present position. You well know that he will be sustained, and that Senators, though now bound by party rules to get for their constituents a just proportion of political patronage, will rejoice that the President had manliness enough to withdraw Indian appropriations from party patronage, when, as in this case, it tends to demoralize our home heathen. I cannot speak for other religious bodies; but no missionary to the Indians, with whom I am connected, will use a dollar of Government money for the support of churches or of schools; and I sincerely hope that we will also be able to furnish the physicians and all the medicines required free of cost to the Government or the Indians. The progress of Christianity will, of necessity, be slow in converting heathen people, until, as in gospel times, teaching and healing are used to illustrate and enforce the truth of the preached gospel. I am encouraged in thus reporting at length, by remembering your earnest pleading for the Indian two years since, when we were both delegates to the convention of the Protestant Episcopal Church. Command me freely when I can further help you in this cause.

Yours, very respectfully,

WILLIAM WELSH,
1122 *Spruce Street.*

Hon. COLUMBUS DELANO,
Secretary of the Interior, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
January 12, 1871.

SIR: During my necessary absence in the Indian Territory, whither I had gone under your orders, to attend the general council of the Indian tribes of that Territory, a letter addressed to you by the Hon. Wm. Welsh, of Philadelphia, was published in many of the daily prints, alleging "frauds in the purchase and transportation of goods for the Indian service" during the past year. I did not see this letter until my return to the States, near the close of December. I also subsequently learned that the appropriation committee of the House of Representatives had been ordered to investigate the same. I deem it, therefore, my duty, in justice to myself, to briefly reply to some of the allegations in said letter, and respectfully to request that the reply be filed in your Department.

The allegations of fraud relate principally to contracts entered into for beef and flour, and the transportation of Indian goods to points on the Missouri river, principally for the Sioux of Dakota. The charges are very general and cannot, therefore, be answered as specifically as might be desired.

To a proper and fair understaning of the action of this office in entering into contracts for beef and flour, it is necessary to explain that an arrangement existed with the commissary branch of the Army to feed Indians—the Sioux of Dakota being included—until July 1, 1870, the same to be paid for out of the appropriation of April 10, 1869, of two millions of dollars, "to enable the President to maintain the peace among and with the various tribes, bands, and parties of Indians, and to promote civilization among said Indians; bring them, where practicable, upon reservations; relieve their necessities, and encourage their efforts at self-support." The Sioux of Dakota, the southern Cheyennes and Arapahoes, and the Kiowas and Comanches, whom the peace commission of 1867 had located about agencies they had established, received most of the benefit of this arrangement. All familiar with Indian affairs will admit that these tribes of Indians are among the wildest and most warlike of the remaining Indians of the United States. The inducements held out to them to cease their warfare against the citizens of the United States and settle upon reservations, was, that they should be clothed and fed, and ultimately taught the useful arts pertaining to civilized life. A large portion of these Indians had been thus located and fed and clothed for more than eighteen months previous to July 1, 1870; and during that time a comparative peace had been maintained along the western frontier. It was known and admitted by all who had dealings with them, that it was only the food and clothing that kept them about the agencies, and it was the unceasing apprehension of all that the moment their supplies ceased they would abandon their agencies, and at once resume their nomadic habits, taking from citizens whatever property they might fancy, and inauguratng a war, if deemed to their advantage. In the month of June last but little prospect existed of passing the Indian appropriation bill before the 1st of July, at which time the arrangement with the Commissary Department was to terminate.

In May and June, 1870, Red Cloud, Spotted Tail, and other Sioux visited Washington to secure a better understanding with the authorities of the United States respecting their future. They were assured that if they staid upon their reservations and remained at peace they would be fed and clothed. The Indians then complained that they had not been either well fed or sufficiently clothed. No positive promise upon any matter presented by them was made on behalf of the Indian Office, as everything depended upon the action of Congress on the Indian appropriation bill then pending in that body.

The fact was patent to the Indian Office, and all familiar with our relations to the Indians above named, that unless something was done to continue their subsistence after the 1st of July, they would very soon thereafter abandon the agencies around which they had located, return to the plains, and again commence their predatory habits. The Indian agents then in Washington stated positively that in case of failure to continue the supplies the Indians would commence depredating, and perhaps inaugurate a general Indian war. Such a result was not to be desired. The large expenditures of money and labor which had resulted in producing a comparative peace and safety along most of the Indian frontier was not to be recklessly thrown away. The Indian Office felt that the country demanded that peace should continue to exist, and that the horrors attendant upon an Indian war should be averted. There was but one sentiment respecting Indian affairs, and that was the continuance of peace. To obtain subsistence for the Sioux alone required time. Their treaty stipulated certain supplies for them, and they demanded it in person as well as through their agents. (The treaties with the southern Cheyennes and Arapahoes, and the Kiowas and Comanches, embrace no stipulation of subsistence for them, and is a serious oversight, as without it peace cannot long be maintained.) Up to June 15, 1870, no Indian appropriations had passed, and deeming it of the utmost importance that immediate steps should be taken to keep up the Indian supplies, I looked about to find some responsible party who could furnish the necessary supplies within a limited time and take the risks

of appropriations being made to pay for the same. Among the many persons who were either recommended by friends or applied in person to do the required work, I selected Mr. Bosler. I had no particular personal knowledge of him, but he was represented to me as having at different times supplied the Army posts on the Missouri, had also had some dealings with the peace commission in the matter of furnishing supplies for them during their negotiations with the Indians, and was generally familiar with every difficulty to be overcome in contracting on the Missouri River. The manner in which he executed his contract fully justifies the confidence the office placed in him. An abundance of good provisions was soon supplied, the Indians did not abandon the agencies, and an apprehended expensive Indian war was averted. But it is alleged that the prices paid for beef and flour were too high. To this I can only say that, with the information the office then possessed, it did not seem extravagant. Preceding July 1, 1869, General Harney, acting under the sanction of the peace commission, paid for beef, 7.90 cents per pound, gross weight, for feeding these same Indians. The same commission paid six cents at Fort Laramie. I was also credibly informed that the Commissary Department were paying 5 cents for beef at Fort Randall, 5.90 at Fort Rice, and had at times paid as high as seven cents per pound at the latter place. Five cents had been paid for beef in Sioux City, and in 1869 the Commissary Department, under its arrangement with the Indian Office, was getting beef for 4.44 cents.

In 1867, the peace commission paid for flour $6 per 100 pounds; in 1868, Indian Commissioner Taylor paid $6 50 per 100 pounds, delivered at the Ponca and Yankton agencies; $9 at Crow Creek; $11 at Fort Sulley, (near which the Cheyenne agency is now located,) and $12 50 at Fort Rice, (near which is the Grand River agency.) Superintendent S. M. Janney has paid during the past summer, for use at the Santee agency, $3 35 per 100 pounds. General Harney, while in charge of these Indians, had paid 5½ cents for flour delivered in Sioux City, and 11 cents delivered at the Whetstone agency. I was also informed that the Commissary Department was paying for its flour, during the past summer, $3 35 per 100 pounds, or thereabouts. No arrangement beyond July 1, 1870, could be made with the Commissary Department for feeding the Indians. They would make no agreement until assured by an appropriation by Congress in bulk, which the result shows did not occur. Hence it was evident that there was an emergency demanding not only immediate action, but action which would not properly be subject to the rule of ordinary purchases or contracts, because the time within which a large amount of beef and flour must be delivered at points remote from the depots of supply was very short—less than a month—and a large amount of capital, some $300,000, must be risked upon the contingency of a future appropriation, an investment which would not be made at any rate by a majority of those governed by the regular rules of trade; and while other contracts and purchases in the same locality are presented as giving a scale of prices, (and this purchase is submitted without hesitation to their test,) it should be borne in mind that they were made in the main when there were funds in the hands of the parties contracting, or applicable for their payment. Such being my general information and impressions at the time, in arranging terms with Mr. Bosler, I felt confident that the bargain was not a bad one. As before stated, he promptly executed his work. No fault has ever been found by the Indians with the quality of the supplies he furnished, or that the quantity was deficient, except in the weight of beef at the Cheyenne agency, referred to in said letter. The papers show that at this time the agency scales were out of repair, that every precaution was then taken, in the manner practiced at frontier posts, to get at a correct average weight of the cattle, and experts were called in from Fort Sully to assist in the matter. There was no suspicion of fraud in the manner of arriving at the weight, and the contractor had a right to expect pay for weights thus agreed on.

Respecting the transportation, to which reference is also made as being high, and therefore conclusive of fraud, I reply that nearly all the Indian freight, consisting of annuity goods and some other supplies, reached Sioux City in October, at a time when navigation on the Upper Missouri had nearly ceased on account of low water and the near approach of cold weather, and I made the very best terms I could with the most responsible parties running boats on the upper river to insure the certain delivery of the Indian freight. The prices paid, in my judgment, were reasonable, and will compare favorably with what has been paid in former years and that paid by the Army for the fall months of the present year. It must be borne in mind that the season was late; all Indian freight was bound to be taken up to their respective destinations, or endless trouble would be the result of failure, and water transportation was cheaper than by land, though both were high.

Respecting the allegation made that Captain Poole, then agent at the Whetstone agency, refused to receive the cattle because he had an abundant supply on hand, and yet was ordered by the Commissioner of Indian Affairs to receive the cattle, I reply, that no one was more urgent than Captain Poole, while in Washington with Spotted Tail and his party, that there should be no interregnum of supplies at his agency. He repeatedly stated that he should be out of everything after July 1, and his representations had certainly much weight in controlling the action of the Indian Office at this

time, he having but recently left his agency. Upon returning, he repeated his requests by telegraph from Sioux City, saying that he should be out of subsistence for his people on or about the 10th of July. On the same day he was notified that the Department had made definite arrangements to supply him as well as the other agencies on the Missouri River; yet a few days after he telegraphs that he had an abundance of cattle, which it seems he had received from the commissary contractor, but of which this office had no notice or information, and when, therefore, those contracted for by the office reached there he declined to receive them.

Having already, acting upon the information of Captain Poole and other agents, contracted as stated, the office could not legally recede, and therefore ordered him to receive the cattle, and sent letters to the other agents to do the same. The information upon which the office acted was in all cases positive, that supplies were getting short.

Respecting the allegation that the board of Indian commissioners were not consulted in the purchases made of beef and flour, I have only to say that the act authorizing such consultation and inspection passed on the 15th of July, 1870, while the contract complained of was made June 17, 1870, nearly one month preceding the passage of the act.

Respecting the enormous profits made by the contractors, I can say that I know nothing about it. They will probably be called by the committee of the House charged with the investigation of this matter to reveal the prices paid by them to execute their contracts and the profits they made.

In conclusion, I desire to express a conviction which has forced itself upon my mind that these gratuitous charges upon the Indian Office is but a determination to carry out certain theories put forth by Mr. Welsh in 1869. It will be recollected that in April, 1869, President Grant appointed Mr. Welsh as one of the Indian commissioners authorized to be appointed under the act of Congress of April 10, 1869. He then claimed that the expenditure of all Indian appropriations was also intended to be placed in the hands of said commission. To this proposition the Hon. J. D. Cox, then Secretary of the Interior, and myself dissented, and in which we were sustained by the President. He then resigned from the commission and has since labored as a voluntary agent, keeping, it seems, a watchful eye upon the transactions of the Indian Office, with a view to detecting irregularties and exposing them, and thereby taking from it the management of the Indian funds. The determination of the President to call in the religious element of the country to aid him in the management of Indian affairs, and the Episcopal Society, of which I understand Mr. Welsh is a prominent member, having had assigned to them most of the Dakota district as their special field of labor, has opened the most plausible pretext to renew the attempt of 1869, at least so far as that society has acquired jurisdiction in Dakota, notwithstanding the Indian Office has maintained the peace and kept the Indians comparatively quiet there and elsewhere. I will not assert that he and his associates or any other religious organization are not as competent to manage and disburse Indian funds as the Indian Bureau, but there being at present no law authorizeing such a course the Bureau is bound to repel all such attempts. Since the accession of President Grant to the office of Chief Executive of the Nation, the Indian Bureau has been conducted solely and wholly with a view to the maintenance of peace, and the avoidance of expensive and horrible Indian wars, the amelioration of their condition, and their advancement in civilization.

I also think it proper to remark, that during the past and preceding year, the communications from Mr. Welsh, relative to Indian affairs, have not always been couched in those terms which might be expected from one not authorized to dictate or control; but as there was a probability that his motive was a desire to promote the welfare of the Indians, his wishes have, as far as the same were practicable and not incompatible with existing laws, been complied with.

Very respectfully, your obedient servant,

E. S. PARKER,
Commissioner.

Hon. C. DELANO,
Secretary of the Interior.

PHILADELPHIA, *January* 9, 1871.

SIR: Your official note informs me that the Committee on Appropriations of the House of Representatives (of the sub-committee of which you are chairman) is charged with the investigation of certain irregular and unlawful conduct of the Commissioner of Indian Affairs, referred to in my letter to the Hon. Secretary of the Interior.

Although I did not suggest an examination by the House of Representatives, yet I will not shrink from a duty imposed upon me as a citizen of the United States, and therefore have arranged the statements of misconduct under the following heads, to enable your committee to make a thorough examination without loss of time, and also to enable the Commissioner of Indian Affairs to prepare specific answers.

You ask the names of witnesses I desire to have summoned. As the documentary testimony in the Indian Office, and with the Second Auditor, Commissary General, and Quartermaster General, will present the case fully, I do not desire to have witnesses sent for, but it may become necessary in the course of investigation.

Yours, very respectfully,

WM. WELSH.

Hon. A. A. SARGENT,
Chairman, &c., Washington, D. C.

Statement of misconduct in the Indian Office.

First.—Extensive purchases of cattle, flour, groceries, &c., by private contract, about June 17, August 10, 1870, and at other times, in direct violation of a law of the United States, which requires such supplies to be advertised for in the public newspapers before purchases are made.

Second.—Large purchases made nearly a month before the passage of the appropriation bill, and therefore without warrant of law, and to an extent not warranted by any exigency—the payments to one individual alone amounting to more than three hundred and thirty-five thousand dollars. The letters of June 18, 1870, from the Indian Office to Agent Poole and others, show conclusively that there was no exigency requiring large purchases, as one-third of the cattle were to be delivered about July 15, one-third August 1, and one-third September 1, 1870.

Third.—A violation of the appropriation bill passed July 15, 1870; section 3 making it the express duty of the Commissioner of Indian Affairs to consult the board of commissioners in making purchases of all goods to be paid for under said appropriation bill; large purchases of beef, flour, &c., having been made without the knowledge of said board of commissioners.

Fourth.—Section 3 of said appropriation bill makes it the duty of the board of Indian commissioners "to supervise all expenditures of money appropriated for the benefit of Indians in the United States, and to inspect all goods purchased for said Indians, in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commission," &c. This well-defined duty imposed on the Commissioner of Indian Affairs was only complied with in the supervision and inspection of dry goods, and wholly neglected in other and far more extensive and important expenditures of money.

Fifth.—Culpable neglect in not ascertaining by telegraph or otherwise how much beef and other supplies were likely to be furnished by contractors under the Commissary Department before making large purchases of beef, &c., as per contracts of June 17 and August 10, 1870.

Sixth.—Exorbitant prices paid for provisions about June 17 and August 10; six and one-half cents per pound being the contract price for Texas cattle on the hoof, to be *received* and *receipted* for by the agent *immediately* on the arrival of the herd. The Commissary Department was at that time supplying the agencies at 4.45 cents per pound, and a contract, when properly advertised, was subsequently made by the Indian Department at 3.88 cents per pound. In both cases the contractor was bound to *keep the cattle at his own expense and risk, deliverable as required by the agent from time to time during the period of nine months.* The contractor for the cattle at 6½ cents is also a partner in the contract at 3.88 cents. He and others in the cattle business admit that the cost and risk of keeping Texas oxen in that stormy region and near hostile Indians, for delivery as needed, exceeds 1¼ cent per pound, which deducted from the 4.45 and 3.88 make the purchase at 6½ cents for prompt delivery equal to an advance of 100 per cent. on the commissary's contract, and 150 per cent. on the contract made by the Indian Office in *pursuance of law* after proper public advertisement. I was credibly informed, and believe, that the cattle delivered in November at 6½ cents a pound cost but 2¾ cents at some reservations, 2.85 cents at others, and 3 cents at the most remote. I am offered oxen in full supply for the next season at 2¾ cents a pound, delivered on the banks of the Missouri River from June 15 to July 1, although the price of cattle has materially advanced in Texas since last spring. The best of the cattle, say 4,000 head, of the 3.88 cents contract, cost 3 cents a pound, because they were bought so late that they could not reach Grand River before the close of November. I was credibly informed, and believe, between two and three thousand cattle under the same contract were very inferior to the others, and that some of them cost 2½ cents a pound, or less.

Seventh.—The following wrongful and censurable instructions to agents, dated Indian Office, June 18, 1870: "If the quantity of any or all of the articles delivered should vary from the foregoing, either more or less, it will make no particular difference. You will give Mr. Bosler proper receipts for all the supplies furnished by him at the time of the delivery." "The foregoing instructions" notified the agents at Whetstone that one-third of the cattle would be delivered, each, about July 15, August 1, and September 1,

1870. Mr. Bosler notified the agent that he would thrust upon him about one thousand cattle by July 20. The agent remonstrated, as he had then nearly three months' supply on hand. A telegram from the honorable Commissioner of Indian Affairs, dated July 20, 1870, compelled him to receive from J. W. Bosler all the cattle he brought, say 839 head, in addition to the 1,200 already on hand at the agency. The agent reports that these additional cattle will cost him $600 per month for herders, in addition to the cost of their rations, and that he apprehended a large loss to the Government from stampeding and other casualties. As these letters of instructions show that the contractor might deliver in July, August, and September, a plea that the contract for supplies was made to meet an exigency has no foundation in fact; and the reason for this *very peculiar clause* became manifest on this, and especially on subsequent occasions, for deliveries of 6½-cent cattle were made in November, and attempts were made in the same month to force 7,000 additional oxen on the agents, contrary to contract.

Eighth.—The neglect to advertise for proposals to furnish cattle, immediately after the passage of the appropriation bill, July 15, is not only culpable, but seems to be something worse, when coupled with the fact that additional cattle, to the extent of more than $155,000, were purchased privately on or about August 20, and were allowed to be delivered as late as November 14, when, under the advertised contract, cattle were to be ready for delivery as early as the 15th of October, at 3.88 cents a pound.

Ninth.—Neglect in not notifying the Second Auditor of the receipt of a notification from Agent Randall, of Cheyenne, that his sub-agent had receipted for Texas cattle at twelve hundred pounds, instead of nine hundred and thirty-eight pounds, the actual weight, &c. Also, culpable remissness in paying large sums of money on vouchers from irresponsible persons, not officially known to the Department, said vouchers not giving the number of the cattle, or stating whether they had been weighed or estimated, and by whom, or, in the case of net weight of beef, whether the oxen had been killed, or how the estimate had been made.

Tenth.—Neglect in not sending a copy of the contract of September 17 to the various agents, as had been done with the private Bosler contract. The instructions of June 18, to receive without restriction, had not been revoked, but had been strengthened by the telegram of July 20, from Commissioner Parker, ordering Captain Poole to receive without limit. That there was collusion in an attempt to defraud the Government, is more than probable from the following reasons: 1. J. W. Bosler, the contractor at 6½ cents, is also a partner in the contract of September 17, at 3.88 cents, and he avers that Governor Carney, the representative of another ring, or combination of bidders, offered $40,000 if the bid of 3.88 was withdrawn. 2. A nine months' supply of oxen, say nearly 7,000 cattle, would not have been driven to the Missouri region in November if the contractors had expected to be held to their bargain. 3. No preparations were made by the contractors to keep the cattle, or to kill them and freeze the beef. That is, no hay was provided, no horses purchased, no herders hired, and no houses erected for protecting frozen beef. 4. A partially successful attempt was made by the contractors, or their agents, to force these cattle on the Indian agents; and they would have been largely, or perhaps wholly successful, if I had not, when in Washington, demanded to see the contract, and was therefore prepared to caution the Indian agents. Before I reached Crow Creek some 400 of these cattle had been forced on an agent who had already resigned. He averred that he had given a temporary receipt under false representations. These new cattle caused his whole herd to stampede.

Eleventh.—Wastefulness of the public money in purchasing other articles, all from the same favored contractor; say bacon, (with the rib bones,) at 25 cents per pound; coffee at 28 cents per pound; common sugar, made from molasses, at 18 cents per pound; inferior tobacco at 85 cents per pound, and flour at 6½ cents per pound, delivered at the agencies. Also, in buying from the same person, a resident in Pennsylvania, 25,000 ninety-eight-pound sacks of second-quality flour, at $3 50 a sack, delivered at Sioux City, where the market price was $2 20, purchasing all privately from one person instead of advertising according to law, and not allowing bids of one thousand sacks or more, that persons living near the reservation might find a market for their products and manufactures. Wheat could have been contracted for at from 1 to 1½ cent per pound, and a more nutritous diet manufactured on the reservation, with existing machinery, at less than half the cost of the flour furnished.

Twelfth.—Exorbitant rates paid for freight up the Missouri River, by not encouraging or allowing competition.

Thirteenth.—Grievous wrong to the Indian service by allowing peculiar facilities to a superintendent or superintendents, agent or agents, having strong political friends, by which the Government has been defrauded or the welfare of the Indians retarded.

WM. WELSH.

PHILADELPHIA, *January* 9, 1871.

WASHINGTON, D. C., *January* 13, 1871.

DEAR SIR: I have the honor to acknowledge the receipt of your communication dated January 11, 1871, in which, by instructions of the Committee on Appropriations of the House of Representatives, you forward me, inclosed, a copy of a communication of William Welsh, esq., dated Philadelphia, January 9, 1871, and stating that you will receive any reply that I may be pleased to make.

I do not understand, from your communication, that I am personally or officially called upon to answer before your committee for any misconduct in office, or that, beyond the accusations contained in the letter of Mr. Welsh and matters connected therewith, there is anything pertaining to my administration, as Commissioner of Indian Affairs, into which you propose an investigation. I address myself, therefore, at once to the charges made by Mr. Welsh.

First. That I made extensive purchases of cattle, flour, groceries, &c., about June 17 and August 20, 1870, and at other times, in violation of law, I deny.

Second. That I made large purchases a month before the passage of the appropriation bill (of July last, I suppose he means) without warrant of law, and not warranted by any exigency, I deny.

Third. That I made purchases, in violation of section 3, appropriation act, approved July 15, 1870, I deny.

Fourth. That I violated said section 3, by reason of matters contained in said charge, I deny.

Fifth. That there was any culpable neglect, on my part, in not ascertaining the quantity of supplies likely to be furnished by the Commissary Department, before making purchases June 17 and August 20, 1870, I deny.

Sixth. As to many of the allegations in charge sixth I have no knowledge. That I purchased beef cattle in July and August, 1870, at prices greater than subsequently paid for beef cattle delivered under contract is true. But my action in the matter was based upon the necessities and circumstances then surrounding me, which I will fully explain to the committee if it is desired.

Seventh. That I issued any wrongful and censurable instructions to agents, relative to receiving supplies in July or August, 1870, or at any other time, as alleged, I deny. My instructions are to be found in the Office of Indian Affairs, and will be furnished, together with any explanation your committee may require.

Eighth. That I was guilty, as charged, of any culpable neglect in the matter of advertising for proposals after the passage of the appropriation bill of July 15, 1870, I deny. As to purchases subsequently to the passage of the act I will make full answer whenever informed by the committee that such answer is desired.

Ninth. That I was guilty of culpable neglect and remissness, in failing to give proper notice to the Second Auditor in any matter whatever, or that I was so guilty in paying vouchers of any character, as charged, I deny.

Tenth. That I was guilty of neglect in not sending a copy of the contract of September 17, 1870, to the various agents, as had been done with the contract of J. W. Bosler, or that there was any collusion between Mr. Bosler and myself, I deny. Whether "there was collusion in an attempt to defraud the Government" between persons other than myself, as is by Mr. Welsh asserted to be probable for reasons stated by him, I know not. But that I had knowledge of any such collusion or had aught to do with it, if such attempt was made, I deny.

Elereuth. That I was guilty of "wastefulness of the public money in purchasing other articles from Mr. Bosler," as alleged by Mr. Welsh, I deny. That I should have provided cracked wheat for the Indians instead of flour is a matter of policy, in supplying these people, about which there may be honest difference of opinion, and I suppose I need suggest nothing further in reply to the charge that I preferred to furnish flour.

Twelfth. That "I paid exorbitant rates for freights up the Missouri River by not encouraging or allowing competition," I deny.

Thirteenth. That I was guilty of "grievous wrong to the Indian service by allowing peculiar facilities to a superintendent or superintendents, agent or agents, having strong political friends, by which the Government has been defrauded or the welfare of the Indian retarded," I deny.

Your committee will observe, upon reading the charges numbered from one to thirteen inclusive, that, in some cases, they contain statements of facts of which I can have no knowledge; that they abound in inferences of the person making them which do not necessarily follow from the facts themselves; that they cover a wide range of inquiry, not only into particular transactions, but the general policy of the Indian Office; that they are often vague and uncertain in allegations of facts, but of this I care little. There are substantial averments which concern me personally and officially, and all such I stand ready to answer.

Your committee now have the charges and my reply.

I suppose the just and proper course in such investigations will be pursued, and that the accuser will be called upon to make good his charges.

To the extent of all knowledge in my possession I offer my assistance.

I only ask to be permitted to be present when witnesses are called and have the privilege of cross-examination; to be furnished with a copy of the evidence, if consistent with your rules of procedure, and to be permitted to call witnesses myself to explain any matter deemed important where witnesses may be necessary.

I have the honor to be your obedient servant,

E. S. PARKER.

Hon. A. A. SARGENT,
Chairman Sub-Committee, &c., House of Representatives.

EXECUTIVE OFFICE, YANCTON, DAKOTA TERRITORY,
April 16, 1870.

SIR: I have the honor to inclose herewith a communication from Brevet Major George M. Randall, Indian agent, dated the 9th instant, reporting that six thousand five hundred Indians are now at the Cheyenne agency, and asking to have furnished, with as little delay as possible, one month's supply of sugar, coffee, and bacon for their subsistence until June 30.

Very respectfully, your obedient servant,

J. M. MORTON,
Secretary

Hon. E. S. PARKER,
Commissioner Indian Affairs, Washington, D. C.

CHEYENNE AGENCY, DAKOTA TERRITORY,
April 9, 1870.

SIR: I have the honor to state that I am at present subsisting six thousand five hundred Indians at this agency, and, at the least calculation, three thousand more than was expected here for subsistence, and they are daily arriving. I most respectfully request that at least one month's supply of sugar, coffee, and bacon be sent here with the *least possible delay*, as the amount I have on hand will not last over forty days; with the quantity asked for and with what I have on hand will, in my opinion, be sufficient to subsist them until the 30th June.

I may state that the original weight of the bacon when received here was 121 pounds to the sack. It wasted to such an extent that I would not receive it from the acting commissary of subsistence, at its original weight, until determined on by a board of survey from Fort Sully, who weighed it and found that it averaged 107 pounds to the sack. Had the bacon held out at its original weight, in all probability I would have had sufficient to last until the 30th June.

I most urgently request that a sufficient quantity of sugar and coffee (green) be sent here to enable me to double the ration, in order to keep the hostile Indians as peaceable as possible while they remain here, as the present ration is entirely too small.

I am, sir, your obedient servant,

GEO. M. RANDALL,
Captain and Brevet Major U. S. A., Indian Agent.

Hon. JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs, Yancton, D. T.

EXECUTIVE OFFICE, YANCTON, DAKOTA TERRITORY,
April 30, 1870.

SIR: I have the honor to inclose herewith a letter from agent J. A. Hearn, dated April 19, 1870, reporting amount of subsistence stores on hand at the Grand River agency.

Very respectfully, your obedient servant,

J. M. MARTIN, *Secretary.*

Hon. E. S. PARKER,
Commissioner of Indian Affairs, Washington, D. C.

GRAND RIVER AGENCY, DAKOTA TERRITORY,
April 19, 1870.

SIR: I have the honor to inform you that the supply of coffee, sugar, and bacon at this agency will not last longer than the 15th of May, 1870; flour up to the 1st of July, 1870; corn and salt up to May, 1871.

I am, very respectfully, your obedient servant,

J. A. HEARN,
Captain and Brevet Major United States Army, Indian Agent.

P. S. Nearly 7,000 Indians are drawing rations at this place.

J. A. HEARN,
Brevet Major United States Army, Indian Agent.

Hon. JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs, Yancton, D. T.

[By telegraph from Indianapolis.]

MAY 2, 1870.

Hon. E. S. PARKER, *Commissioner of Indian Affairs:*

Major Randall, Cheyenne agency, writes under date April 16th to send one month's supply of flour. Must be sent him for the same number of Indians as stated in his letter of 16th ultimo, with least practicable delay; also, if the Indians continue to arrive as they have for the past three weeks, his rations will not hold out for over twenty days.

JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs.

OFFICE COMMISSARY GENERAL OF SUBSISTENCE,
Washington City, District of Columbia, May 27, 1870.

SIR: I would respectfully invite your attention to the following extract from a letter of May 17, 1870, from Brevet Captain W. H. French, jr., Indian agent at the Crow Creek agency, Dakota Territory, to Brevet Major General H. F. Clarke, acting commissary general of subsistence, viz: "I was instructed from the Indian Department to receive cattle from the contractor only as they are needed; this will leave about forty-eight head on his hands at the expiration of each month, which should be received by the department under the contract."

General Clarke states that "if the number of beef cattle provided to be delivered per month at Crow Creek agency should be offered by the contractor to June 30th next and not accepted, the contractor would have cause to complain, and would doubtless claim damages."

As the contract was made solely for cattle to be transferred to your department, I have to request that the Indian agents at Crow Creek, and other agencies on the Missouri River, at which the Subsistence Department is providing beef cattle, may be instructed to receive, on or before the 30th instant, all cattle due under the contract at their respective agencies.

Very respectfully, your obedient servant,

A. B. EATON,
Commissary General Subsistence.

Hon. E. S. PARKER,
Commissioner of Indian Affairs.

DEPARTMENT INTERIOR, OFFICE INDIAN AFFAIRS,
June 1, 1870.

SIR: I am in receipt of your letter of the 27th ultimo, relative to the beef cattle to be delivered at the Crow Creek agency, under contract made by your Department, and requesting that the agents at all the agencies on the Missouri River, at which the Subsistence Department is providing beef cattle, be instructed to receive, on or before the 30th instant, all the cattle due under the contract at their respective agencies. You are advised in reply that the necessary instructions have this day been issued to Governor Burbank, ex-officio superintendent of Indian affairs for Dakota, to direct said agents to receive all the cattle that, under the contract or contracts made by your Department, are to be delivered at their respective agencies, up to the end of the present month.

Very respectfully, your obedient servant,

E. S. PARKER, *Commissioner.*

General A. B. EATON,
Commissary General of Subsistence, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
June 1, 1870.

SIR: I am in receipt of a letter from commissary general of subsistence, dated the 27th ultimo, requesting, for reasons given by him, that the agents at all the agencies on the Missouri River, at which the Subsistence Department is providing beef cattle, be instructed to receive, on or before the 3d instant, all the cattle due at their respective agencies under the contract made by said Department.

As the contract referred to was made solely for beef cattle to be issued to Indians, in accordance with an arrangement made by this Bureau with the Subsistence Department, and as all the cattle agreed to be furnished under it will doubtless be required to feed the Indians at the different agencies in your superintendency where subsistence is now being delivered by said Department, you will please instruct the several agents to receive, before the 1st proximo, all the cattle agreed to be furnished by the terms of said contract at their respective agencies.

Very respectfully, your obedient servant,

E. S. PARKER,
Commissioner.

Hon. JOHN A. BURBANK,
Governor, &c., Yancton, Dakota Territory.

OFFICE ACTING COMMISSARY SUBSISTENCE,
WHETSTONE AGENCY, DAKOTA TERRITORY,
June 4, 1870.

COLONEL: I have the honor to transmit herewith requisition for supplies for five thousand Indians from July 1, 1870, (three months,) to be fed from this agency.

I would state that the Indian agent at this agency has requested that he be furnished with these supplies for the purpose of *maintaining peace* and keeping the Indians upon their reservation during that period.

Very respectfully, your obedient servant,

A. E. WOODSON,
First Lieutenant United States Army and Acting Commissary Subsistence.

Brevet Lieutenant Colonel T. C. SULLIVAN,
Supervising Commissary for Sioux Indians, Sioux City, Iowa.

A true copy:

C. McCLURE,
Brevet Major and Commissary Subsistence.

Requisition for subsistence supplies for the use of Indians at Whetstone Creek agency, Sioux Indian district, Dakota Territory, for ninety-two days, commencing on the 1st day of July, 1870, and ending on the 30th day of September, 1870.

Whetstone Creek agency, Dakota Territory.	NUMBER—			POUNDS OF—						Remarks.
	To be supplied.	Of days.	Of rations.	Bacon.	Beef, (net.)	Flour.	Coffee.	Sugar.	Soap.	
Indians	5,000	92	460,000	45,000	600,000	230,000	9,200	18,400	4,600	These stores are required to be at this agency before the 1st July, 1870.
No. of pounds needed for use				45,000	600,000	230,000	9,200	18,400	4,600	
No. of pounds that will be on hand July 1, 1870.....				.....	.....	.....	.....	.....	.....	
No. of pounds required for use				45,000	600,000	230,000	9,200	18,400	4,600	

A. E. WOODSON,
First Lieutenant and Acting Commissary Subsistence U. S. A.

A true copy:

CHAS. McCLURE,
Brevet Major and Commissary Subsistence.

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
OFFICE CHIEF COMMISSARY OF SUBSISTENCE,
Chicago, Illinois, June 15, 1870.

GENERAL: Herewith I have the honor to inclose a requisition just received for subsistence supplies for use of Indians at Whetstone Creek agency, Dakota Territory, for three months, commencing July 1, 1870.

The requisition was not called for from this office, and under the instructions you have given me in relation to future subsistence supplies for Indians, it can receive no action here, and perhaps it should not be referred to your office; yet as no evil can result therefrom, I have thought it best to so refer it.

Very respectfully, your obedient servant,

H. F. CLARKE,
Brevet Major General, Acting Commissary General Subsistence,
Chief Commissary Subsistence, Military Division Missouri.

Brevet Major General A. B. EATON,
Commissary General Subsistence United States Army, Washington, D. C.

A true copy:

CHAS. McCLURE,
Brevet Major and Commissary Subsistence.

OFFICE COMMISSARY GENERAL OF SUBSISTENCE,
Washington City, June 18, 1870.

SIR: I have the honor to submit to the Secretary of War, with the suggestion that it may be transmitted through the Secretary of the Interior to the Commissioner of Indian Affairs, a copy of a communication of the 15th instant, from Brevet Major General H. F. Clarke, assistant commissary general subsistence, chief commissary subsistence, Military Division of the Missouri, inclosing a copy of a letter of June 4, 1870, from the acting commissary of subsistence of the Whetstone Indian agency, Dakota Territory, accompanied by a requisition for subsistence supplies for the use of Indians at that agency from the same officer, who remarks in his letter that the "Indian agent requested these supplies," &c.

It is known to yourself, as also to the Secretary of the Interior and to the Commissioner of Indian Affairs, that it has been decided that the Subsistence Department shall complete its agency in the subsistence of the Indians referred to by ordering the transfer to the several Indian agents at the agencies on the Missouri River reservation all the subsistence supplies and property that have been accumulated at those several agencies, for issue thereat, for and within the current fiscal year, and that thus there was no provision or authority for the acting commissary at the Whetstone agency to take any steps for the further subsistence of those Indians. The Subsistence Department having completed its limited agency in that matter, the question of further supplies for those Indians is not one for the determination of the War Department.

I have the honor to be, very respectfully, your obedient servant,

A. B. EATON,
Commissary General Subsistence.

Hon. W. W. BELKNAP,
Secretary of War.

WAR DEPARTMENT,
Washington City, June 18, 1870.

SIR: I have the honor to inclose herewith, in the absence of the Secretary of War, and by his direction, a copy of a requisition for 450,000 rations, drawn by the Indian commissary at the Whetstone Creek agency in Dakota Territory, upon the Subsistence Department of the Army, being the needed supplies for 5,000 Indians, from July, to September 30, 1870. As the existing arrangement for supplying rations to peaceful Indians is about to terminate, no action upon the requisition can be taken by this Department.

Very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant General.

The Hon. SECRETARY OF THE INTERIOR.

EXECUTIVE OFFICE, YANKTON, DAKOTA TERRITORY,
June 17, 1870.

SIR: Believing that nothing should be left undone on the part of the Government to retain the good-will of the Yankton tribe of Indians, and keep them, as the great portion of them have been, the firm friends of the whites, as well as to be ready to organ-

ize them for our defense in case of an outbreak which we are at any time liable to have, I deemed it my duty to drop all other matters and go there in person, not only for the purpose of examining into the cause of the burning of the barn, stock, &c., but to make a personal examination into their affairs, and endeavor to find out if any portion of them were disposed to affiliate with hostile and disaffected Indians, who are using every means to render them discontented and induce them to withdraw their friendship from the whites.

I find that whenever any members of this tribe visit the Tetons, or they make a visit to the Yankton reservation, the friendly Indians are told that they are poor and often hungry; that the Government does not feed and clothe them as it does the hostile Indians, and that so long as they remain friendly to the whites they will be neglected and uncared for; that if they wish to live well and have all they want, they must join them, go on the war path, take all the white man has got, and flee to the Black Hills. When this is gone they can return for more; and when they get tired of this or find that it is better to prepare for winter, they can commit a few murders, and the Great Father will get scared and send commissioners to treat with them, who will be supplied with all they need and will send boat-loads of provisions and presents of goods. This, they urge, is much better and more honorable than to remain on a little piece of land and have to work, which they regard as a disgrace and not even reputable for squaws to do. There is no doubt that these hostile Indians exercise an influence over many of the Yanktons, and while the older and better Indians discountenance the efforts made to create disaffection, yet they feel that they are neglected, and they cannot understand that while they have treaty stipulations which are fulfilled to the letter, besides receiving a much larger amount than is actually due them in presents, the Government should at the same time take care of those who are not its friends, and who are not endeavoring to cultivate the soil or take any steps toward civilization.

Notwithstanding we have the friendship and good-will of the head-men, we are compelled to either feed this tribe or fight them, and to treat them fully as well as any tribe or band of Sioux, regardless of the amount we agreed to give them by treaty stipulation, or incur their hostility.

The moment we fail to do this we can depend upon an outbreak, and all will join in against us except a few old men who may remain as figure-heads.

By giving them a partial ration the present stock of subsistence will last until the first of July; and unless some means are taken to furnish them with another supply by the time this is gone, or to give them the assurance that a supply is coming, I am satisfied that it will be impossible to keep a large portion from leaving the reservation and joining the hostile Indians, which will, in my opinion, lead to the formation of small war parties to raid upon the unprotected settlers upon the borders of their reservations.

I verbally directed Major Goodhue to submit an estimate of subsistence to last for three or four months, which will be forwarded with proper suggestions as soon as received.

While on the reservation the trading house opposite Fort Randall was fired for the second time, but was fortunately again discovered in time to save it, with but a small loss to the building. At the same time the granary close by, belonging to the stage company, was burned to the ground. This, with the attempt to burn the store, as heretofore reported, and the loss of the barn, horses, &c., goes to show that there is a determination on the part of some one to continue burning property.

The chiefs in council state that they have made due inquiry and endeavored to find out who was destroying their property, but have failed to do so. They also state that they have a few bad men, who do not live among them but occasionally come there to visit their relatives, and that one of these men was on the reservation at the time the barn was destroyed.

They seem to be very much dissatisfied with the head farmer; charge that he refused to feed one of their chiefs when he was at his house; that he has pushed two of their young men and hurt them, and that they had great difficulty in preventing them from having revenge in their own way; also, that when there is work to do he has been giving it to white men instead of Indians. I deemed it best, however, not to order the head farmer discharged, as the crops are now growing, and a change should be avoided at this time unless a certainty existed that a man could be got who was perfectly familiar with the agency.

There are a great number of rumors flying up and down the river that the Indians are on the war path, and this agency being directly on the line of travel, there is hardly a day passes but that something new and startling is reported to have taken place. I find that the Indians as well as the whites are alarmed, and fear depredations will be committed, or, perhaps, an attack made.

The Indians seem to think that it is best for them to organize three parties to patrol their reservation; one at the east end in the vicinity of Choteau Creek, one at the west end nearly opposite Fort Randall, and the other to scout over the prairie back of the agency. The difficulty that I see in the way of their plan is that—

1st. We should have to furnish them with arms and ammunition.

2d. We should have to furnish them with rations in addition to what they are now receiving.

3d. If we expect them to perform this service they will soon demand pay for it.

They cannot understand why it is that the Government employs soldiers who are paid, while the same funds, clothing, &c., cannot be given to them.

There is no doubt as regards the duty of the Indian Department to see that the agencies are properly protected, and as a war party have already been seen watering their horses nearly opposite Fort Randall, and as the Yanctons have been threatened by the hostile Indians on account of their friendship to the whites, some steps should be taken toward their defense. If it can be so arranged that the Indians can be mustered as a police force, paid, and fed as our troops are, I should much prefer to see this course adopted. If not, I deem it my duty to recommend that a full company be stationed at this agency at the earliest moment possible.

There are so many wants of the Indians in this agency, so many calls for articles needed, so much that ought to be done, all of which calls for an outlay of money, that were I to enumerate the smallest portion you would think that I was not aware that there were but forty thousand dollars allowed by treaty stipulations.

There are certain things that we must have and expenses that we will have to create if we attempt to even make a show of carrying on the business of an agency, a few of which I will enumerate, leaving the balance for some other time:

A good portable mill must be furnished at the earliest moment possible, also a good threshing machine, with horse-power attached, and a suitable barn to replace the one destroyed.

The present store-house is about falling down, and will have to be underpinned with stone. A new roof is also required, together with other repairs; so that I am not prepared to say, at this time, whether it will be most advisable to build a new one or repair the old.

The present buildings for employés are almost uninhabitable; but economy demands that they shall be used as long as possible.

A number of these Indians are well pleased with the idea of having their land set apart to them, and now ask for agricultural implements. These should be furnished so far as they will take the proper care of them.

The present agent has had but little experience with Indians; but from what I can see I believe him to be a good man and that he will soon make a good and efficient agent.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs.

Hon. E. S. PARKER,
Commissioner Indian Affairs, Washington, D. C.

EXECUTIVE OFFICE, YANKTON, DAKOTA TERRITORY,
June 18, 1870.

SIR: Herewith find inclosed monthly report of Brevet Major J. A. Hearn, of Grand River agency, for the month of May.

Allow me to call your attention to the statement that the flour, bacon, sugar, and coffee will last only till July 1. You are well aware that we must feed or fight the Indians in this superintendency, and by failing to have full supplies on hand we furnish the disaffected with an argument, or pretext at least, to compel those who are disposed to be friendly to join them.

I trust that you have the means at your command to send a full supply at once; but, if not, I hope that you may devise some means whereby subsistence can be kept on hand at this and all the other agencies.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs.

Hon. E. S. PARKER,
Commissioner Indian Affairs, Washington, D. C.

GRAND RIVER AGENCY, DAKOTA TERRITORY,
June 2, 1870.

SIR: I have the honor to make the following report for the month of May, 1870:

The number of Indians at this agency is the same as stated in my last report—one thousand and twenty-eight (1,028) lodges. They are continually going out and coming in. I expect that by the end of this month one hundred lodges will leave here.

As soon as the remaining Indians will have received their annuities, a large number are going out in the interior on their usual summer hunt.

The conduct of the Indians is much the same as stated in my last report—remarkably good.

The supply of provisions on hand will hold out as follows: Flour, bacon, sugar, and coffee will last only to July 1, 1870.

I earnestly request that supplies be forwarded as soon as possible, as the deportment of the Indians deserves that the Government should promptly comply with the conditions of their treaty.

The chiefs are always anxious to hear any news concerning them, and wish to know when their annuities will be forthcoming, &c.

Companies A and F of the Seventeenth United States Infantry arrived here May 20, 1870, under command of Lieutenant Colonel Samuel B. Hayman. They are quartered on the agency for the time being.

Good feeling prevails between the Indians and troops, and I have no reason to believe that there is any danger of the Indians resuming hostilities against the Government.

Very respectfully, your obedient servant,

J. A. HEARN,
Captain and Brevet Major United States Army.

Hon. E. S. PARKER,
Commissioner of Indian Affairs, Washington, D. C.,
(Through Hon. J. A. Burbank, superintendent.)

EXECUTIVE OFFICE,
Yancton, Dakota Territory, July 4, 1870.

SIR: Herewith inclosed I have the honor to transmit letter of Brevet Major J. A. Hearn, of Grand River agency, dated June 18, relative to the supply of subsistence stores at that place. It is anticipated by your favor of the 27th ultimo.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs.

Hon. E. S. PARKER,
Commissioner Indian Affairs, Washington, D. C.

GRAND RIVER AGENCY, DAKOTA TERRITORY,
July 1, 1870.

SIR: I have the honor to make the following report for the month of June, 1870:

The number of Indians located at this agency the past month was 1,006 lodges; they have behaved themselves remarkably well. We are entirely out of flour and bacon. Coffee and sugar will last until July 31, 1870, and corn until January, 1871.

Many Indians are dissatisfied, and think the Government is going to stop feeding and clothing them, as their supply of provisions for the coming year has not arrived, and they are living on corn and beef.

I respectfully request that supplies be forwarded as soon as possible, if they are not already on the way.

I am, very respectfully, your obedient servant,

J. A. HEARN,
Captain and Brevet Major U. S. A., Indian Agent.

Hon. E. S. PARKER,
Commissioner of Indian Affairs, Washington City, D. C.
(Through Hon. J. A. Burbank, superintendent.)

P. S.—Since writing the above, I have been informed that three young men, belonging to the "Oncpapa" band of Sioux, have stolen eight animals, as follows, viz:

John B. Dillon, one (1) American horse and three (3) mules; Thomas Smith, one (1) mule; George Carny, one (1) Indian horse; Commissary Department U. S. A., two (2) American horses.

J. A. HEARN.

GRAND RIVER AGENCY,
Dakota Territory, June 18, 1870.

SIR: I have the honor to report that the supply of the following subsistence stores at this agency will not hold out longer than the dates annexed to them respectively:

Bacon, June 30, 1870; beef, June 30, 1870; flour, June 30, 1870; coffee, July 31, 1870; sugar, July 31, 1870; soap, July 31, 1870.

I will respectfully state, long prior to this date I have notified both the honorable Commissioner of Indian Affairs and your office of the quantity of subsistence stores on hand, and the dates on which my supplies would be expended, but as yet I have heard nothing concerning supplies for this agency for the coming year.

I earnestly request and recommend that supplies be purchased and forwarded for the use of the Indians at this agency. I will state as my reason for so doing, that I consider it my duty to say, that certainly it would be injustice on the part of the Government not to promptly comply with the conditions of their treaty, as the conduct of the Indians at this agency during the past winter and spring deserves that they should be promptly complied with.

Very respectfully, your obedient servant,

J. A. HEARN,
Captain and Brevet Major United States Army, Indian Agent.

Hon. JOHN A. BURBANK,
Governor and ex-officio Sup't Indian Affairs, Yankton, Dakota Territory.

EXECUTIVE OFFICE,
Yankton, Dakota Territory, July 6, 1870.

SIR: I have the honor to inclose herewith report of Captain D. C. Poole, United States Indian agent at Whetstone, Dakota Territory, for the month of June, 1870.

Would respectfully call your attention to the expressed wish of the Indians of that agency in regard to making a buffalo hunt.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent of Indian Affairs.

Hon. E. S. PARKER,
Commissioner of Indian Affairs, Washington, D. C.

WHETSTONE AGENCY, DAKOTA TERRITORY,
July 4, 1870.

SIR: I have the honor to forward herewith reports of the condition of affairs at this agency at the end of June, 1870.

I returned with delegation of Sioux Indians from Washington, District of Columbia, June 24. The delegation has held council with their people, and have informed me that they (their people) are very much pleased with the result of their visit, and are now waiting for arrival of annuity goods; at the same time are very anxious to make a buffalo hunt, which the delegation understood they would be allowed to do, while in Washington, and word would be sent to the agency as to the time and manner of their going. Spotted Tail and other chiefs have requested me to ask the Department for its decision, expressing the hope that his people may be allowed to go, as they are much in need of skins and robes and other necessaries which the buffalo supply to them. I have therefore again to request that their application be granted.

Spotted Tail and his people are also quite anxious to know when arrangements will be made to establish an agency for his people at the forks of the White River, as he understood while in Washington that steps would shortly be taken to that end.

I have receipted to the Commissary Department for about thirteen hundred head of beef cattle, which will last at present rate of issue nearly three months. The Indians are much pleased by knowing that these cattle are in hand for issue to them, as many were becoming uneasy, from being informed that the supply would run out at the end of the month of June. The supply of coffee and sugar has been exhausted, and I have borrowed from the commissary officer, (Colonel Whistler,) Fort Randall, a quantity sufficient to make next issue. As yet no stores have arrived to supply deficiencies, though I have been assured by the Department that they would be forwarded early in July.

All the corn planted by the Indians is doing well and gives promise of good yield.

The affairs of the agency generally are in a prospering condition.

Very respectfully, your obedient servant,

DE WITT C. POOLE,
Captain United States Army and Indian Agent.

Hon. JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs, Yankton, Dakota Territory.

EXECUTIVE OFFICE,
Yankton, Dakota Territory, September 10, 1870.

SIR: I have the honor to transmit herewith report of Captain J. A. Hearn, of Grand River agency, for the month of July, inclosing report of Dr. S. S. Turner upon vaccination.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs.

Hon. E. S. PARKER,
Commissioner Indian Affairs, Washington, D. C.

GRAND RIVER AGENCY, DAKOTA TERRITORY,
July 31, 1870.

SIR: I have the honor to make the following report for the month of July, 1870:

The number of Indians located at this agency during the month was 1,006 lodges. They have behaved themselves very well.

I received provisions on the 15th of July, and the Indians were very well pleased, as a great number supposed that the Government was going to stop feeding them. They are very anxious about their annuities, as they wish to start on their fall hunt to get some robes, to procure some little articles from the traders, that are not furnished by the Government.

The Indians at this agency are desirous of making a treaty of peace with the Gros Ventres and Rees, and wish the Sioux Indians located at the lower agency to join them, as the Two Kettles and Yankton Indians cause all the trouble.

I inclose herewith Dr. S. S. Turner's report on vaccination.

I am, very respectfully, your obedient servant,

J. A. HEARN,
Captain and Brevet Major United States Army, Indian Agent.

Hon. E. S. PARKER,
Commissioner of Indian Affairs, Washington, D. C.
(Through Hon. John A. Burbank, superintendent.)

EXECUTIVE OFFICE, YANKTON, DAKOTA TERRITORY,
June 11, 1870.

SIR: I have the honor to transmit herewith letter of Agent French, of Crow Creek agency, of June 7, stating that the supply of bacon was exhausted the last of March, and that he has but three weeks' issue of sugar and coffee.

Allow me to most respectfully request that you take the proper steps to have a supply of the articles named sent at the earliest moment possible.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent of Indian Affairs.

Hon. E. S. PARKER,
Commissioner of Indian Affairs, Washington, D. C.

CROW CREEK AGENCY, D. T., *June* 7, 1870.

SIR: I have the honor to report that the supply of bacon for the agency was exhausted on the last of March, and that I have but three weeks' issues of sugar and coffee on hand.

The bacon is an indispensable article with the Indians, without which they cannot cook their flour, they having no baking powders, nor the means to purchase them with, and have to rely entirely upon grease to make their bread rise.

The Lower Yanktonais at this place will be left in a very destitute condition should Congress fail to make an appropriation for their support. There is no game on their side of the Missouri River, and were they to hunt upon the territory of the Teton Sioux, they would be massacred by the hostile Indians.

Very respectfully, your obedient servant,

WM. H. FRENCH, JR.,
First Lieutenant and Brevet Captain U. S. A., U. S. Indian Agent.

Hon. JOHN A. BURBANK,
Governor and ex-officio Sup't Indian Affairs, Dakota Territory.

EXECUTIVE OFFICE, YANKTON, DAKOTA TERRITORY,
June 27, 1870.

SIR: On last evening I returned from a visit to the Ponca agency, where I found affairs, on the whole, in better condition than they were at this time last year. These Indians are decidedly a peaceful people, and seem more disposed to work and adopt the customs of the whites than their neighbors, the Sioux of Dakota.

A commencement has been made in the right direction by encouraging the leaders and the further advanced in civilization to commence erecting log houses, which has resulted in twenty being built in the last year, the Indians performing all the labor, except the carpenter work, while in each one that I visited I found a cooking stove, which the owner had purchased by saving the price from the annuity, or selling a pony for this purpose. I was very much gratified while visiting the school under charge of Mr. Reed, to find in attendance seventeen boys and six girls who were rapidly advancing, all having learned the letters and being able to pronounce them distinctly in our language, while several were much further advanced. I am told that not one of those present could speak our language before the school was started last winter.

The crops put in by the Indians look remarkably well, taking into consideration the dry weather that we are now having. Should we have rain in this vicinity soon, they must derive material advantage from them the coming winter. The agent informs me that he has twenty-five acres of wheat, and the Indians have nine acres. That belonging to the agency looks well and bids fair to be a good crop. In addition to this there are about twenty acres of sod corn put in for the purpose of feeding agency teams. I doubt, however, this amounting to much.

The Omahas and Pawnees sent word to the Poncas a short time since that they were going on a hunt, and, having a prospect of finding buffaloes on the Platte, the greater portion decided to go, as they were entirely out of meat of any description, leaving but a small number of their people at home.

The old people soon learned of my being at the agency, and came to see me. Some were blind, others lame; while they stated that they were hungry, and begged so piteously for something to eat, that it was really painful to be compelled to listen to their appeals. The morning before leaving, I saw a number of the old people who had got together out on the prairie with their cooking utensils, preparatory to cooking a meal, and in such a place that they knew I could not avoid seeing them. The eldest woman of the party commenced singing in a pitiful strain, and then praying to the Great Spirit to take pity upon them, and send them something to eat. The sight was so affecting that no one witnessing it could have refused to give them any assistance in his power.

When at Washington, last winter, I called your attention to these people, and verbally urged you to ask Congress to provide for them. I now have to lay their actual condition before you, trusting that you can and will devise some means to have this little tribe properly cared for. They are surely the friends of the Government, and are surrounded by enemies, who watch them so closely that they endanger their lives if they go on the bluffs, back of the Missouri bottom. Consequently they are cut off from all kinds of game, except when they are occasionally so fortunate as to obtain permission to join in with the tribes who are friendly toward them, and go on a hunt. Unless subsisted by the Government during the coming winter, they must starve.

The whole annuities appropriated for the coming year, including pay of employés and all other expenses of the agency for the fiscal year ending June 30, 1871, will not, if I am correctly informed, exceed $17,500, which is not sufficient for the purpose intended, and not one dollar of which can be spared for provisions, if we expect these Indians to continue making the progress toward self-support which they are now doing.

There are, in round numbers, seven hundred and fifty persons belonging to this tribe, who, if subsisted as the same number are elsewhere, would require 273,750 rations. Presuming that their crop will be a full one, I believe that if the closest economy is used, we can get along until June 30, 1871, with 100,000 rations, which I would recommend to consist as follows:

1 pound flour; 1 pound beef; ¾ pound bacon every fourth issue, in lieu of beef; 1½ pounds corn every fifteenth issue, in lieu of flour; 4 pounds coffee to the 100 rations; 6 pounds sugar to the 100 rations; 2 pounds salt to the 100 rations; 2 pounds soda to the 100 rations.

These supplies should commence arriving at the agency not later than August 1, at which time the tribe will have returned from their hunt. Much labor and expense were occasioned last year by sending the subsistence supplies to the Yankton agency, which required them to be hauled down stream fifteen miles, besides the additional difficulty of crossing the river. The Yanktons were very much dissatisfied, as they believed the rations sent there were intended for them, and even went so far as to

charge that they were being stolen from them, and to say that they should not be taken away. I have, therefore, to recommend that hereafter supplies be shipped direct to the Ponca agency.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent of Indian Affairs.

EXECUTIVE OFFICE, YANKTON, DAKOTA TERRITORY,
July 27, 1870.

SIR: I have the honor to respectfully request information as to the action taken by the Department relative to my letter of June 27, asking that certain subsistence stores be furnished the Ponca agency.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent of Indian Affairs.

Hon. E. S. PARKER,
Commissioner of Indian Affairs, Washington, D. C.

EXECUTIVE OFFICE, YANKTON, DAKOTA TERRITORY,
June 18, 1870.

SIR: In transmitting the inclosed letter of Major Goodhue, of Yankton agency, containing an estimate for subsistence for the Yankton Indians for four months, commencing July 1, I most respectfully direct your attention to my remarks upon this subject contained in letter of 17th instant, and to urge that proper steps be taken to have the subsistence furnished, so that a supply may be there by the 1st of July.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent of Indian Affairs.

Hon. E. S. PARKER,
Commissioner of Indian Affairs, Washington, D. C.

YANKTON AGENCY, DAKOTA TERRITORY,
June 15, 1870.

SIR: I have the honor to herewith submit an estimate for rations required for use of Yankton tribe of Indians, numbering 2,000 souls, for the months of July, August, September, and October, 1870, being for the period of 123 days:

Flour, 123,000 pounds, at 4 cents per pound	$4,920 00
Beef, 214,000 pounds, at 10 cents per pound net	21,400 00
Bacon, 24,000 pounds, at 21 cents per pound	5,040 00
Corn, 61,500 pounds, at 2 cents per pound	1,230 00
Sugar, 9,840 pounds, at 13 cents per pound	1,279 20
Coffee, 4,920 pounds, at 23 cents per pound	1,131 60
Soap, 2,460 pounds, at 8 cents per pound	196 80

In making the above estimate, I have been governed in fixing the cost by the ruling rates in the towns along the Missouri River. I cannot too strongly urge upon the Department the importance of making provisions for the Indians of this agency, commencing with the month of July. All the rations provided for them under contract of last year will have been consumed by that time, and in my judgment if the Department should cease to feed them at this time, the Indians will scatter, many of them joining the disaffected Sioux, who are now committing depredations along the line of the Union Pacific Railroad. The Indians of the upper agencies are constantly taunting the Yanktons with a statement of the fact that they, (the Yanktons,) who are peaceable and friendly to the whites, have never received the presents and provisions from the Government that they, the hostile and unfriendly ones, have. If the Government should feed the Indians of the Whetstone, Cheyenne, Crow Creek, and Grand River agencies during the coming year, and withhold supplies from the Yanktons, it will result in the disintegration of the tribe, and have a strong tendency to alienate the friendly feeling now existing toward the Government. And if perchance there should be an uprising of the Sioux Nation this year, the Yanctons, smarting under what they deem the neglect of the Government, would in all probability join the hostiles. It is of the first importance,

in view of the past and present efforts to advance these Indians in civilization, to pursue a policy that will induce them to remain contentedly on their reservation. If they become scattered and disaffected, in a very short time they will relapse into the same degree of wildness and barbarism that now characterizes their brothers of the Upper Missouri.

In view of these facts I would earnestly invite the attention of the Hon. Commissioner of Indian Affairs to the importance of making ample provision for subsisting the Yankton Indians. According to an estimate of my predecessor, there are about 500 acres of corn and 190 acres of wheat planted on the reservation this year for the Indians. If the crops turn out well, I have no doubt there will be a sufficiency of breadstuff to last them through the winter, and perhaps the spring months; but as the crops are uncertain and cannot be made available until fall it is necessary to make some provision for the interim.

I am, sir, very respectfully, your obedient servant,

J. M. GOODHUE,
Major United States Army, Indian Agent.

Hon. E. S. PARKER,
Commissioner of Indian Affairs, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
June 27, 1870.

SIR: I am in receipt of your letter of the 18th instant, inclosing one from Agent Goodhue, relative to subsistence that will be required for the Yanktons; also of one of same date, transmitting Agent Hearn's report for the month of May, and in which he refers to the matter of subsisting the Indians at the Grand River agency.

In reply I have to advise you that arrangements have been made by this office for the delivery of enough subsistence at the Yankton, Whetstone, Cheyenne, Grand River, and Crow Creek agencies to feed the Indians at those places for three months after the 30th instant. These supplies will be delivered between the 1st and 15th proximo, and you will please advise the respective agents in charge of said agencies accordingly, that they may make the necessary arrangements to receive and care for the stores.

Very respectfully, your obedient servant,

WILLIAM F. CADY,
Acting Commissioner.

Hon. JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs, Yankton, D. T.

[Telegram.]

SIOUX CITY, IOWA, *June* 18, 1870.

Hon. E. S. PARKER:

The supplies for Indians at Whetstone agency will be entirely expended by July 10, 1870; all the time will be required to forward more. Colonel Sullivan, commissary of subsistence, is prepared to forward them from this point on receipt of orders. Will the order be issued?

D. C. POOLE,
Captain United States Army.

[Telegram.]

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
June 18, 1870.

Captain DEWITT C. POOLE, *Indian Agent, Sioux City, Iowa:*

Arrangements have been made for subsistence for Indians at Whetstone. The supplies will probably be there early in July.

E. S. PARKER, *Commissioner.*

SIOUX CITY, IOWA, *June* 18, 1870.

SIR: I am officially informed by Colonel Sullivan, supervising commissary Sioux Indian country, stationed here, that the rations for Indians at Whetstone agency will be

entirely exhausted by the 10th day of July, 1870. As all the time will be required from this date to forward said supplies from this point, the nearest market where they can be procured, I deemed it for the interest of the service to notify you by telegram, that immediate steps may be taken to continue the supplies.

I have the honor to be, with great respect, your obedient servant,

DE WITT C. POOLE,
Captain United States Army and Indian Agent.

Hon. E. S. PARKER,
Commissioner Indian Affairs, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
June 18, 1870.

SIR: I have to advise you that arrangements have been made with James W. Bosler, esq., for the delivery of the following subsistence stores for the use of the Indians in your agency, viz:

Two hundred and thirty-four thousand pounds, net weight, of good merchantable beef; the cattle to be delivered on foot as follows: One-third, or thereabouts, on or about the 15th of July; one-third, or thereabouts, on or about the 1st of August; and the residue on or about the 1st of September, 1870. Also, 24,000 pounds of bacon, or dried salt pork; 96,000 pounds of flour; 7,600 pounds of coffee; 15,200 pounds of sugar; 1,920 pounds of salt; 1,920 pounds of soap; and 900 pounds of tobacco. All the articles named are to be of a good merchantable quality, and, with the exception of the beef, are to be delivered at your agency between the 1st and 15th of July next.

You will receive from Mr. Bosler the supplies to be furnished under said arrangement; and should the quantity vary from the amount herein given in each or any case, either more or less, you will receipt to him accordingly; that is, you will give proper receipts for the amount of each article delivered at the time of the delivery. You will, also, make the necessary preparation to properly care for the supplies after they have been delivered.

Very respectfully, your obedient servant,

W. F. CADY,
Acting Commissioner.

Major J. M. GOODHUE,
Indian Agent, Yankton Agency, Dakota Territory.

Captain WILLIAM H. FRENCH,
Indian Agent, Crow Creek Agency, Dakota Territory.

Major G. M. RANDALL,
Indian Agent, Cheyenne Agency, Dakota Territory.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
June 18, 1870.

SIR: I have to advise you that arrangements have been made with James W. Bosler, esq., to furnish the following subsistence stores for the use of the Indians in the Whetstone agency, viz:

Four hundred and sixty-eight thousand pounds, net weight, of good merchantable beef. The cattle are to be delivered on foot, one-third, or thereabouts, to be delivered on or about the 15th of July; one-third, or thereabouts, on or about the 1st of August; and the residue on or about the 1st of September, 1870. Also, 48,000 pounds of bacon, or dried salt pork; 192,000 pounds of flour; 15,200 pounds of coffee; 30,400 pounds of sugar; 3,840 pounds of salt; 3,840 pounds of soap, and 1,800 pounds of tobacco.

All the supplies are to be of a good merchantable quality, and, with the exception of the beef, are to be delivered between the 1st and 15th of July next.

It will probably be impossible for Mr. Bosler to furnish the exact amount agreed upon, and therefore if the quantity of any or all of the articles delivered should vary from the foregoing, either more or less, it will make no particular difference.

You will give Mr. Bosler proper receipts for all the supplies furnished by him at the time of the delivery.

Very respectfully, your obedient servant,

W. F. CADY,
Acting Commissioner.

Captain D. W. C. POOLE,
Indian Agent, Whetstone Agency, Dakotah Territory.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
June 18, 1870.

SIR: I have to advise you that arrangements have been made with James W. Bosler, esq., to furnish the following subsistence supplies for the use of the Indians on the Grand River reservation, Dakota Territory, viz:

Five hundred and eighty-five thousand pounds, net weight, of good merchantable beef. The cattle are to be delivered on foot, one-third, or thereabouts, to be delivered on or about the the 15th of July; one-third on or about the 1st of August; and the residue on or about the 1st day of September, 1870. Also, 60,000 pounds of bacon, or dried salt pork; 202,500 pounds flour; 18,000 pounds of coffee; 36,000 pounds of sugar; 4,500 pounds of salt; 4,500 pounds of soap, and 2,250 pounds of tobacco.

All the supplies are to be of a good merchantable quality, and, with the exception of the beef, are to be delivered between the 1st and 15th of July next.

You will give Mr. Bosler proper receipts for all the supplies furnished by him, at the time of delivery; and as it will probably be impossible for him to furnish the exact amount agreed upon, it will make no particular difference if the quantity of any or all of the articles delivered should vary either more or less from the foregoing.

Very respectfully, your obedient servant,

W. F. CADY,
Acting Commissioner.

Major JAS. A. HEARN,
Indian Agent, Grand River Agency, Dakota Territory.

[Telegram.—Received at 1.53 p. m.]

SIOUX CITY, *June* 22, 1870.

General E. S. PARKER, *Commissioner Indian Affairs:*

I have enough cattle on hand to last three months. Will the Commissary Department furnish the other supplies? Your answer to this will guide me in closing up my papers with that Department.

D. C. POOLE,
Captain U. S. Army.

[Telegram.]

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
June 22, 1870.

Captain D. W. C. POOLE, *Indian Agent, Sioux City, Iowa:*

The Subsistence Department will furnish no supplies after 1st proximo. Other arrangements have been made.

E. S. PARKER, *Commissioner.*

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
June 23, 1870.

SIR: I have to advise you that I am in receipt of a telegram from Agent Poole, dated the 22d instant, to the effect that he has enough cattle at the Whetstone agency to last three months.

In view of this fact, the beef stipulated to be delivered at that agency by the terms of your contract, made with this Bureau on the 17th instant, will not be required, and need not be furnished by you.

Very respectfully, your obedient servant,

WM. F. CADY,
Acting Commissioner.

JAMES W. BOSLER, Esq.,
Sioux City, Iowa.

[Telegram—Received at 12.45 a. m.]

SIOUX CITY, IOWA, *July* 3, 1870.

Hon. E. S. PARKER, *Commissioner Indian Affairs, Washington:*

The cattle for Whetstone are on the way there, and will be ready for delivery in a few days. I can't have them left on my hands. I sent up enough for two months, and you should take them. Only received letter to-day—nearly the time for delivery.

J. W. BOSLER.

SIOUX CITY, *July* 4, 1870.

DEAR SIR: Your favor directing me not to deliver the cattle contracted for at Whetstone was only received to-day. The cattle for Whetstone were purchased some eight days ago, and are now nearly at Whetstone; and to abandon the delivery and drive them back would be great detriment and loss to me. You must recollect that your desire and instructions were to hurry these cattle forward and deliver them without delay, which I did. I purchased the entire amount of cattle called for under the contract, and started them from a point on the Union Pacific Railroad for the several agencies, and I will be unable to communicate with them until they strike the Missouri River, which will be near Whetstone. So, under the circumstances, and taking into consideration the great embarrassment it would be to me to carry out your instructions, I hope you will reconsider the matter and instruct the agent to receive them. I have used every exertion possible to carry out your wishes in this matter as to time, and should not be the sufferer for doing so; besides, I learned from Colonel Macfeely, at Chicago, that Major Poole had received notice at Chicago that you had made arrangements to supply his agency with cattle and other subsistence immediately, and I therefore think that he had no right to supply himself to such an extent, and should have to take care of them.

Let me hear from you at once on this subject, directed to this place. Governor Burbank wished me to leave part of the supplies for Yankton agency at Ponca agency. I telegraphed you on the subject, but did not receive an answer, and as the boat containing these supplies has left, there will be none left at Ponca agency. I will leave to-morrow to overtake the boats, but a letter will reach me at this place.

Very respectfully, yours, &c.,

J. W. BOSLER.

General E. S. PARKER.

EXECUTIVE OFFICE,
Yankton, Dakota Territory, June 30, 1870.

SIR: Herewith inclosed I have the honor to transmit letter of Captain W. Clifford, of Fort Berthold agency, relative to the stores needed for the subsistence of Indians at that place during the coming winter, a large number of them consisting of women and children, who have to look exclusively to the Government for support. It is quite important that these stores should be sent in ample time to insure their delivery before the close of navigation, and also that they should be sent to Fort Berthold *direct*, instead of to Fort Stevenson, from whence they would have to be hauled, if landed there.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs.

UPPER MISSOURI INDIAN AGENCY,
Fort Berthold, Dakota Territory, June 16, 1870.

GOVERNOR: I have the honor to submit that the following subsistence stores should be furnished this agency for the use of Indians here who may not be able to get away from the village in pursuit of game this winter, which inability may arise from various reasons, as sickness, want of means of transportaion, &c., viz: 500,000 pounds of flour; 75,000 pounds of bacon; 150,000 pounds of fresh beef; 10,000 pounds of sugar; 5,000 pounds of coffee. There are between five and seven hundred women and children, who have no relations, and of course are entirely dependent upon the agency for subsistence. In case of the failure of game this estimate will not be large enough, but if game is no scarcer than it was last winter, this amount will be sufficient. If no subsistence stores are sent, and game fails, these people will be in a most deplorable condition, as they will starve by degrees. Nothing can be told as to the certainty or uncertainty of the crop, and even if it turns out first class, there will not be sufficient to avert starvation.

I am thus early in forwarding this application for the reason that I consider these people entitled to just as much as whites under charge of the Government, and certainly to more than the Sioux, who repaid the kindness of the Government with treachery.

Any stores forwarded to this agency should be sent to Fort Berthold, Dakota Territory, as the cost of hauling from Stevenson will amount from one-half to one cent per pound.

As yet there are no provisions at Stevenson for the people, and the little at that post last winter was all that kept famine at bay.

I am, sir, very respectfully, your obedient servant,

W. CLIFFORD,
Captain United States Army, Indian Agent.

Hon. J. A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs, Yankton, D. T.

[Telegram.—Received at corner Penn. avenue and Fourteenth street 12.15 p. m.]

SIOUX CITY, IOWA, *July* 3, 1870.

To Hon. E. S. PARKER, *Commissioner Indian Affairs*:

The Indians of Fort Berthold agency are in as much need of subsistence as any in my superintendency. A full report is on the way. The beef cattle you ordered for Whetstone agency have been purchased and now en route to the agency. I have to recommend that I be authorized to order J. W. Bosler to deliver the same to Captain W. Clifford without delay.

JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs.

[Telegram.]

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
July 5, 1870.

J. W. BOSLER, Esq., *Sioux City, Iowa:*

Leave part of Yankton supplies at Ponca agency, agreeably to Governor Burbank's order. Agent's receipt will be sufficient. Can you deliver at Berthold the beef intended for Whetstone? Answer.

W. F. CADY,
Acting Commissioner.

[Telegram.]

SIOUX CITY, IOWA, *July* 5, 1870.

Hon. E. S. PARKER, *Commissioner:*

It will be impossible for me to deliver those cattle at Berthold; it is through the most dangerous Indian country from Grand River up, and I cannot get men to do it. Receive them at Whetstone, and let the Government transport them either by river or with a military escort. I might deliver them at Grand River agency by prepaying the extra cost of driving, and let your Berthold agent come down and receive them there. I will be unable to communicate with them until they strike the Missouri River at Whetstone. Wait until you receive my letter, then answer here. All stores have gone. I leave to-night; am afraid the boat with Yankton supplies had passed Ponca before I received your telegram.

J. W. BOSLER.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
July 9, 1870.

SIR: In reply to your letter of the 4th instant relative to the delivery of beef cattle at the Whetstone agency for the use of the Indians at that place, I have to say, that the cattle you have forwarded for said agency will be received by Agent Poole, and that, as no instructions have been sent to the agent in regard to the matter, except those contained in office letter of the 18th ultimo, which letter was handed to you for delivery to him, it is deemed unnecessary to issue further instructions in the premises.

Very respectfully, your obedient servant,

E. S. PARKER,
Commissioner.

JAS. W. BOSLER, Esq.,
Sioux City, Iowa.

EXECUTIVE OFFICE, YANCTON, DAKOTA TERRITORY,
July 15, 1870.

SIR: I have the honor to inclose herewith a letter from Captain D. C. Poole, Indian agent at the Whetstone agency, dated July 10, relative to the matter of receiving from J. W. Bosler the beef cattle purchased for the use of the Yankton Sioux Indians and requesting that on account of the scarcity of grass near the agency, and the liability of losing the cattle in the adjoining hilly country, he be allowed to herd them on the Yankton reservation. Touching that portion of the agent's letter which relates to the matter of receiving the cattle from the contractor, I would say that Agent Poole

has been directed to follow out the instructions contained in your letter to Mr. Bosler, the contractor.

The bottom lands of the Yankton reservation contain good grass, and are well adapted to the herding of cattle, but as the Yankton Indians will doubtless be opposed to having the Government cattle on these lands, I would suggest that the agent be directed to first make some agreeable arrangement with them, in council, for this purpose, or to move them to other vacant lands, if suitable ones can be found.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent of Indian Affairs.

Hon. E. S. PARKER,
Commissioner of Indian Affairs, Washington, D. C.

WHETSTONE AGENCY, DAKOTA TERRITORY,
July 10, 1870.

SIR: I have the honor to report that supplies, intended for three months' issue, have been received from Mr. Bosler. Some of the flour is not of good quality. I am having the same inspected, and shall reject such as I consider unfit for issue to Indians. Mr. Bosler informs me that he will have at this agency, on or about the 20th inst., near one thousand head of cattle. As I have on hand nearly three months' supply, I have informed him that I could not receipt for the same unless I receive positive orders to do so from the Indian Department.

I have to respectfully recommend the herding of surplus cattle at some other point, on account of the drought here, and consequent drying up of grass. A point at or near Yancton agency would be much the most desirable also. Large herds upon the west side of the river (Missouri) are liable to be stampeded, and many of them lost in broken and hilly country. I have, therefore, to respectfully request that orders to receive said cattle be not issued.

Very respectfully, your obedient servant,

DEWITT C. POOLE,
Captain United States Army and Indian Agent.

Hon. JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs, Yankton, D. T.

CHEYENNE AGENCY, *July* 10, 1870.

DEAR SIR: I have delivered all the subsistence stores, under my contract, except Grand River agency, and will complete the delivery there in a few days. In the matter of the cattle for the Whetstone agency, on which subject I both wrote and telegraphed you before leaving Sioux City, if you have not already sent it, I shall expect to find an order at Sioux City for Captain Poole to receive the Whetstone cattle, as per contract, and would also like to have you add to the order that he shall receive them all at one delivery, not to be later than the 15th of August. All the other agents have kindly and willingly agreed to receive them all at once, and Captain Poole said that he could take care of them, and would do so, if he was so instructed, but that in consideration of the notice he had given the Indian Department of his having three months' supply, he should require additional instructions before he would receive them. I hope, therefore, that if you have not already sent these instructions, you will do so at once, by telegraph to Sioux City, in order that I may receive them upon my return to Sioux City.

I will also call your attention to the fact, that up to the time I left Sioux City, I had not received the order for a military escort from Fort Sully to Grand River.

I hope you will give this your immediate attention, as the cattle for Whetstone agency will be ready for delivery before this reaches you, and will probably be delivered at Yancton agency and Crow Creek. I found all the agencies, except Cheyenne, nearly out of stores. At Whetstone they were entirely out, and had borrowed an issue from Fort Randall.

Very respectfully,

J. W. BOSLER.

HON. E. S. PARKER,
Commissioner of Indian Affairs Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., July 18, 1870.

SIR: I am in receipt of your letter of the 10th instant, relative to the delivery of beef cattle at the Whetstone agency.

In reply thereto I have to refer you to office letter of the 9th instant, and would state in addition thereto, that in case Agent Poole declines to receive the cattle to be delivered at his agency under your contract with this bureau, he is authorized and instructed, on your presentation of this letter, to receive the same, and, if he can take proper care of them, to receive at one time all the cattle to be delivered by you at his agency.

Very respectfully, your obedient servant,

E. S. PARKER, *Commissioner.*

JAS. W. BOSLER, Esq.,
Sioux City, Iowa.

[Telegram.—Received at corner Pennsylvania avenue and 14th st. 11.25 a. m., via Missouri Valley.]

SIOUX CITY, IOWA, *July* 19, 1870.

To Hon. E. S. PARKER, *Commissioner:*

Goods all delivered. Agencies all agreed to receive the cattle as fast as I choose to deliver, except Poole's, but wants instructions to protect them. Will you send instructions by telegraph to my care at this place, and I will send up by messenger. Poole is absent and his representative will only follow strictly letter of instructions. Instruct here to receive them at once. Cattle all there, ready for delivery, and for all the other posts; are ready for Grand River. I have instructions.

J. W. BOSLER.

[Telegram.]

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
July 20, 1870.

Captain W. H. FRENCH, jr., Major J. A. HEARN, Major G. M. RANDALL, Major J. M. GOODHUE, Captain DE WITT C. POOLE, *Indian Agents*, care of J. W. Bosler, esq., *Sioux City, Iowa:*

Receive from Mr. Bosler, when he is ready to deliver them, all the cattle to be furnished by him for your respective agencies. Employ necessary herders to care for cattle.

E. S. PARKER, *Commissioner.*

Charge Office Indian Affairs.

E. S. PARKER, *Commissioner.*

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., July 23, 1870.

SIR: I am in receipt of your letter of the 15th instant, inclosing one from Agent Poole, relative to receiving and herding the cattle to be furnished by J. W. Bosler, under his contract for the Indians at the Whetstone agency, stating that you have directed the agent to carry out the instructions of this Department in regard to receiving said cattle, and suggesting that some arrangement be made with the Yanctons by which the cattle can be herded on their reservation, or that they be moved to other vacant lands if suitable ones can be found.

In reply, I have to say that it is expected the agent will at all times obey the instructions of this Department, and consequently that the cattle will be received by him in accordance with instructions. Regarding the question of herding the surplus cattle, I would say that your suggestion meets with the approval of this office, and you will please give the necessary instructions in the premises to have the same carried out. It is desired, however, to have the cattle in question herded on vacant lands, unless the Yanktons are willing to have them on their reservation without extra expense to the Government.

Very respectfully, your obedient servant,

W. F. CADY, *Acting Commissioner.*

Hon. JOHN A. BURBANK,
Governor, &c., Yancton, D. T.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
August 13, 1870.

SIR: This office is about advertising for proposals for subsistence supplies for Indians at the Yankton, Whetstone, Crow Creek, Cheyenne, and Grand River agencies, Dakota

Territory, and I respectfully request that authority be granted to publish such advertisement in the following named newspapers, viz: Chicago Tribune, Chicago Republican, Sioux City Daily Times, Omaha Republican, and Leavenworth Times, together with such other papers as you may deem advisable.

Very respectfully, your obedient servant,

W. F. CADY, *Acting Commissioner.*

Hon. J. D. Cox,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., August 16, 1870.

SIR: You are hereby authorized, in compliance with your recommendation, to advertise proposals for subsistence supplies for Indians at the Yankton, Whetstone, Crow Creek, Cheyenne, and Grand River agencies, Dakota Territory, in the newspapers named in your letter of the 13th instant.

Very respectfully, your obedient servant,

J. D. COX, *Secretary.*

The ACTING COMMISSIONER *of Indian Affairs.*

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
August 10, 1870.

SIR: It being exceedingly doubtful whether, under any advertisement for supplying the Sioux of Dakota with beef and flour, they can be furnished in proper season to prevent a deficiency, I have to request that you will at once supply 1,500,000 pounds, net, more of beef, to be distributed at the various agencies on the Missouri River, in such amounts as shall be hereafter designated to you. Said beef will be paid for at the same rates per pound as is provided in your contract with the Indian Bureau, dated June 17, 1870. This beef must all be on the hoof, and of as good quality as was furnished under your contract, and must all be delivered at the several agencies on the Missouri River on or before the 15th day of October, 1870.

You will also be pleased to collect for the Indian Bureau, for the use of the Sioux Indians of Dakota, from 2,000,000 to 3,000,000 pounds of good extra wheat flour, to be delivered in Sioux City, at as low rates as possible, which rates should not exceed 3½ cents per pound when delivered in Sioux City, ready for shipment by boat.

Your accounts for beef will be settled in Washington, D. C., upon your presenting the receipts of the amounts received by the respective agents, who have this day been instructed to receive from you and receipt to you for the beef you may furnish under this order.

The flour will be settled for in Washington, D. C., upon your presenting bills of lading from such transportation companies as may transport the same to the several agencies.

Very respectfully, your obedient servant,

E. S. PARKER,
Commissioner.

J. W. BOSLER, Esq.,
Sioux City, Iowa.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
August 10, 1870.

SIR: Under special arrangement, J. W. Bosler, esq., has been directed to supply your agency with about 430,000 pounds, gross weight, of beef on the hoof. You will please receive and receipt to him for the same as they may be delivered.

Your obedient servant,

E. S. PARKER,
Commissioner.

UNITED STATES INDIAN AGENT,
At the Crow Creek Sioux Indian Agency, Dakota.

Similar letters to the above sent to the agents at Cheyenne agency, for 430,000 pounds; Yankton agency, for 430,000 pounds; Grand River agency, for 1,075,000 pounds; Whetstone agency, for 645,000 pounds.

CHEYENNE AGENCY, DAKOTA TERRITORY,
August 20, 1870.

SIR: I have the honor to state that I have taken an inventory of the subsistence stores received at the agency during the month of July, 1870, and found the weights

to be as follows, viz: 22,344 pounds bacon, 94,080 pounds flour, 6,335 pounds coffee, 15,182 pounds sugar, 1,920 pounds soap, 1,680 pounds salt, 900 pounds tobacco, 210,150 pounds beef.

The beef cattle were received on the east side of the river, when the instructions stated that the cattle, as well as the stores, were to be delivered and received at the agency. The result has been very disastrous to the Indians. The cattle "stampeded," and out of 450 head received by Dr. Roberts, 80 head are still missing. All the cattle that were to be found have been placed on the west side of the river below the agency. I have used every effort to find and recover the missing cattle, but thus far have not been successful. I shall take up the subsistence at the weights according to the inventory taken. No invoices were received from the contractor, and therefore I am unable to ascertain what amounts were received and receipted for. All the papers I have to show are the steamboats' bills of lading, which will not answer my purpose.

If the memorandum receipts given by Dr. Lorenzo H. Roberts have not been paid, I must respectfully request that they be withheld, and I be directed to furnish correct vouchers.

I may add that the beef cattle were received by Dr. Roberts at an average of 1,200 pounds gross per head. I put 34 head (an average lot of said cattle) upon the agency scales this day, and their actual weight was 934 pounds gross per head.

I am, sir, very respectfully, your obedient servant,

GEORGE M. RANDALL,
Captain United States Army, Indian Agent.

Hon. E. S. PARKER,
Commissioner of Indian Affairs.

CHEYENNE AGENCY, DAKOTA TERRITORY,
August 21, 1870.

SIR: I desire to call your attention to the report of Major G. M. Randall, dated 20th August, from this place. I was not aware of Major Randall's report until just before the mail was to leave; hence I write hurriedly and brief. The Hon. J. A. Burbank, governor and ex-officio superintendent of Indian affairs, sent up Mr. Allison from his office to see that the stores were properly delivered; and I received them and receipted for them in Mr. Allison's presence, but confess I erred in not keeping a copy of the receipt I gave Mr. Bosler, which at the time did not occur to me. I have since, however, written Mr. Bosler for a copy of the receipt, and trust in due time it will come to hand. My reason for receiving the cattle on the east side of the river opposite the agency was in consequence of what Major Randall had said about Indians killing them on the west side. I took the advice of the commanding officer at this post, together with Mr. Allison's. It would have convenienced Mr. Bosler to deliver them at the agency. After Major Randall's return from Washington, I was told that sixty head of cattle had stampeded and had gone into the quartermaster's herd at Fort Sully, and Major Randall told me he found them there, but did not send for them until last Friday, and got only twenty-eight head, I believe. At the time I received the cattle, the agency scales were torn up, and, having no opportunity for weighing them, I went to Fort Sully and found an officer who had judged the weight of cattle often, who was an officer of the day. I went to General Crittenden, commanding; stated to him that I desired Captain J. B. Irvine, who was the officer of the day, to go with me to help judge the weight of the cattle. General Crittenden had him relieved from duty, and we, together with Mr. Joseph Bosler, proceeded to judge the cattle, which we took at six hundred pounds net, and I still believe they will net that amount, although we may have erred in our judgment. It was with great reluctance that I consented to act for Major Randall in his absence, and I would most respectfully ask the honorable Commissioner to inquire of the commanding officer at Cheyenne, (Brevet Lieutenant Colonel E. P. Pearsons,) or any other officer here or at Fort Sully, as to my faithfulness of duty for Major Randall while he was absent in Washington on business. I will not here state why, in my opinion, Major Randall ignores my actions, but will refer you to General Crittenden, Captain Irvine, or the commanding officer at this place.

Trusting I may be treated fairly in the premises, I am, sir, very respectfully, your obedient servant,

L. H. ROBERTS,
Physician, Cheyenne Agency.

Hon. E. S. PARKER,
Commissioner of Indian Affairs, Washington, D. C.

NEW YORK, *August* 25, 1870.

DEAR SIR: I return herewith the advertisement for supplies for Sioux Indians, corrected. You will please have fair copies made, and have the same published in the

ollowing papers: Chronicle and Republican, Washington, two papers in Chicago, one paper in Leavenworth, one paper in Omaha, and one paper in Sioux City.

Very respectfully, your obedient servant,

E. S. PARKER,
Commissioner.

DR. W. F. CADY,
Acting Commissioner Indian Affairs, Washington, D. C.

SUPPLIES FOR INDIANS

DEPARTMENT OF INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., August 26, 1870.

Sealed proposals, in duplicate, will be received at this office until 12 o'clock m., of Monday, September 5, 1870, for the following-named articles required for issue to Indians at the Yankton, Whetstone, Crow, Creek, Cheyenne, and Grand River agencies, in Dakota Territory, viz:

At the Yankton, Crow, Creek, and Cheyenne agencies, respectively, 1,000,000 pounds gross weight, of beef cattle, on the hoof; 70,000 pounds of bacon, clear sides.

At the Whetstone agency, 1,440,000 pounds, gross weight, of beef cattle, on the hoof; 140,000 pounds of bacon, clear sides.

At the Grand River agency, 2,700,000 pounds, gross weight, of beef cattle, on the hoof; 180,000 pounds of bacon, clear sides.

The beef cattle must be good, merchantable cattle, all steers, in good, healthy condition, and average at least one thousand pounds each, live weight, the weight to be determined by weighing on scales when practicable. Their delivery must commence at each of the points named, with the exception of the Whetstone agency, between the 1st and 15th of October next, at which time about one-ninth ($\frac{1}{9}$) of the whole quantity will be delivered; and thereafter the delivery will be made monthly in such quantity as the respective agents shall require. At the Whetstone agency about one-sixth ($\frac{1}{6}$) of the whole quantity to be furnished for that place must be delivered on or before the 1st of January, 1871, and thereafter monthly as at the other agencies.

That there may be no failure on the part of the contractor, he will be required to keep the beef cattle in the vicinity of the respective agencies, to be delivered when required by the agents; and should it be ascertained that he is not collecting cattle in the vicinity of said agencies fast enough, or should he fail to turn them in to the agents as called for, the undersigned will purchase, or cause to be purchased, beef cattle, as he may elect, at the expense of said contractor.

The bacon must be sound and sweet, and will be delivered at Chicago, Illinois, on or before the 20th of September next, and be subject to inspection by an agent to be appointed for that purpose.

Proposals will be received for the delivery of all or any part of the above-named supplies.

The undersigned reserves the right to increase or diminish the quantity of each or any of the articles which the contractor or contractors agree to furnish, provided that the increase in no case shall exceed twenty-five (25) per cent.

Payments will be made at this office on presentation of proper receipts from the agents to whom the supplies are delivered.

Bids for beef cattle will state price per pound, gross. The proposals for the bacon should state the price per pound, net.

Each copy of each proposal must have a copy of this advertisement (a slip from a newspaper) pasted at its head.

No bid will be considered unless accompanied by a written guarantee of two responsible parties, (not bidders,) to the effect that, if the bid is accepted, the bidder will immediately enter into a written contract in accordance therewith, and that they will become sureties on his bond.

The right is reserved to reject any or all proposals, if such a course should be deemed for the interests of the Government.

Each bidder must designate his place of business, where communications sent to him will be received, the same to be entered in his contract should one be awarded to him.

Proposals should be inclosed in an envelope addressed to the undersigned, and indorsed "Proposals for Supplies for Indians."

Bidders are invited to be present at the opening of the bids.

E. S. PARKER,
Commissioner.

NOTICE.—The time for receiving proposals under the above advertisement is extended to the 12th instant at 12 m.

ELY S. PARKER,
Commissioner.

SEPTEMBER 5, 1870.

Abstract of proposals received at the office of the Commissioner of Indian Affairs, September 12, 1870, for furnishing supplies to Indians, as follows:

Number.	Name.	YANCTON.		WHETSTONE.		CHEYENNE.		GRAND RIVER.		CROW CREEK.	
		Beef, 1,000,000 pounds.	Bacon, 70,000 pounds.	Beef, 1,440,000 pounds.	Bacon, 140,000 pounds.	Beef, 1,000,000 pounds.	Bacon, 70,000 pounds.	Beef, 2,700,000 pounds.	Bacon, 180,000 pounds.	Beef, 1,000,000 pounds.	Bacon, 70,000 pounds.
1	G. G. Russell	4½		4½		4½		4½		4½	
2	Joseph F. Gibbs	3¾		3¾		3¾		3¾		3¾	
3	D. A. Freer	4 1-5		4 1-5		4 1-5		4 1-5		4 1-5	
4	E. S. Monroe	5¾		5¾		5¾		5¾		5¾	
5	J. W. Bosler	6½	18	6½	18	6½	18	6½	18	6½	18
6	Durfee & Peck		24		24		25½		26½		24½
7	J. A. Morrow	3 88-100		3 88-100		3 88-100		3 88-100		3 88-100	
8	Tiffin Sinks	3 93.100		3 90-100		4 1-10		4 13-100		4 5-100	
9	E. Fenlon*	4 7-100		3 93-100		4 29-100		4 37-100		4 15-100	
10	Andrew Stuart	5		5		5 96-100		7 92-100		5⅞	
11	Henry S. Bulkley	4¼		4¼		4 4-10		5 3-10		4 4-10	
12	Andrew Stuart	4 49-100		4 49-100		4 49-100		4 49-100		4 49-100	
13	E. D. Comings	4¾		4¾		4¾		4¾		4¾	
14	H. D. Booge	5	19½	5	19½	5	19½	5	19½	5	19¼
15	Benjamin F. Norris	4 7-100		4 17-100							
16	Charles B. Scott	4 30-100		4 6-10							
17	Charles E. Hedges	5		5		5		5		5	

* Offers to furnish all the beef at 4 16-100.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
September 5, 1870.

SIR: The receiving and opening of the bids to be received under my advertisement for supplying the Sioux of Dakota with beef and bacon, having been postponed one week, and fearing serious results from the Indians should their supply of subsistence become exhausted, I have to urge that you will not delay in pushing forward the cattle ordered by me in my communication of the 10th of August. It is extremely important that the upper agencies should be reached at as early a date as possible, so that the Indians may not want for subsistence. The successful bidder in the letting soon to come off may be delayed in the execution of his contract, and it is to guard against such a contingency that I requested you to supply the Indian Department a certain amount of cattle on the hoof, and I hope that you will not disappoint the Department.

Your obedient servant,

E. S. PARKER,
Commissioner.

J. W. BOSLER, ESQ.,
Sioux City, Iowa.

[Telegram.s]

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., September 14, 1870.

Your bid for bacon, eighteen cents, has been accepted. I can be in Chicago any day next week to inspect and receive the same. Answer.

E. S. PARKER,
Commissioner.

J. W. BOSLER, Esq.,
Sioux City, Iowa.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., September 15, 1870.

Your bid for beef at three eighty-eight accepted. Will exact bond for one hundred and fifty thousand dollars. When will you execute contract and give the required bond? Answer.

W. F. CADY,
Acting Commissioner.

J. A. MORROW, Esq.,
Omaha, Nebraska.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., September 15, 1870.

James F. Gibbs declines his bid for furnishing beef, being unable to furnish required bond.

W. F. CADY,
Acting Commissioner.

Hon. E. S. PARKER,
Commissioner of Indian Affairs, care of Buckley, Welling & Co.,
380 and 382 Broadway, New York City.

Extract from report of Commissary General, printed in report of Secretary of War to Congress for 1870, *page* 266.

State or Territory.	Cents per pound.	State or Territory.	Cents per pound.	State or Territory.	Cents per pound.
Maine	14.63	Mississippi	10.05	Indian Territory	5.94
Massachusetts	13.92	Louisiana	8.00	Dakota Territory	9.76
Rhode Island	16.50	Texas	5.99	Wyoming Territory	9.46
Connecticut	13.25	Arkansas	7.60	New Mexico Territory	7.61
New York	12.86	Tennessee	9.25	Colorado Territory	11.50
Pennsylvania	14.52	Kentucky	8.53	Utah Territory	9.50
Delaware	15.00	West Virginia	8.75	Montana Territory	11.16
Maryland	13.56	Ohio	13.25	California (coin)	10.65
District of Columbia	11.86	Indiana	9.22	Oregon (coin)	7.66
Virginia	12.75	Illinois	11.70	Arizona Territory (coin)	10.18
North Carolina	10.22	Michigan	9.70	Washington Territory (coin)	11.30
South Carolina	10.29	Missouri	8.85	Idaho Territory (coin)	9.05
Georgia	10.80	Minnesota	9.92	Alaska Territory (coin)	30.00
Florida	7.50	Nebraska	9.37		
Alabama	8.00	Kansas	10.31		

EXECUTIVE OFFICE,
Yankton, Dakota Territory, September 8, 1870.

SIR: I have the honor to transmit herewith report of Captain DeWitt C. Poole on the condition of affairs at Whetstone agency for the month of August, 1870.

I have to direct special attention to that portion of the report which has reference to the increase in the ration, in accordance with what is claimed by Spotted Tail and Swift Bear to have been a promise made to them while in Washington.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs.

HON. E. S. PARKER,
Commissioner of Indian Affairs, Washington, D. C.

WHETSTONE AGENCY,
Dakota Territory, September 5, 1870.

SIR: I have the honor to report upon the condition of affairs at this agency during the month ending August 31, 1870.

Two companies of the Fourteenth Infantry stationed here have been removed to the Department of the Platte, and one company of the Twenty-seccond Infantry, from Fort Randall, has taken their place. The Indians remain comparatively quiet and are anxiously awaiting the arrival of annuity goods, which they have been informed will arrive by the 15th of September, predicated upon telegram received from the Commissioner of Indian Affairs that such would be the case.

The cattle received from the Commissary Department still amount to over six hundred and forty head, and those received from Mr. Bosler to about eight hundred head. In consequence of the severe drought prevailing in this vicinity good grass for grazing is very scarce. I have found it absolutely necessary to keep the two herds separate, and they are still too large to be united. I have to keep these two herds some twenty-five miles from the agency, and are at present located upon and near Ponca Creek, a branch of the Niobrara River. I returned from a visit to these herds a few days since, and found them in good condition; plenty of running water, although the cattle have to be allowed a wide range to procure sufficient grass. It is my intention to discharge one set of herders by the end of September 30th, and thus reduce very materially expenses.

Spotted Tail and Swift Bear complain very much on account of the ration not being increased. They say that while in Washington they were promised such increase, and that they informed their people upon their return that such would be the case. Their people now accuse them of misrepresenting. I have received no instructions to increase the component parts of the ration, and have no means of doing so. The present supply will be consumed by the 30th of September, excepting beef.

Many of the Indians will move back into the country upon receipt of annuity goods, they inform me, instigated by the whites intermarried with them, who design moving back near Fort Laramie, learning that trading posts and an agency are to be established near there for Red Cloud and his people. The funds required to pay off employés and

herders, and other indebtedness of the agency, it is hoped will be promptly furnished, that all accounts may be adjusted at end of present quarter.

Very respectfully, your obedient servant,

DEWITT C. POOLE,
Captain United States Army and Indian Agent.

Hon. JOHN A. BURBANK,
Ex-officio Superintendent Indian Affairs, Yankton, D. T.

Articles of agreement made and entered into this 17th day of June, A. D. 1870, by and between E. S. Parker, Commissioner of Indian Affairs, for and on behalf of the United States of the first part, and James W. Bosler, of Carlisle, Pennsylvania, of the second part, witnesseth: That the said parties have agreed and do hereby covenant and agree to and with each other in the manner following, to wit:

The said James W. Bosler agrees to furnish and deliver the following described subsistence stores, for the use of the Indians, at the places hereinafter mentioned, in the quantities and at the prices hereinafter specified, to wit:

To the agent of the Yankton Sioux Indians, at their reservation in Dakota Territory, the following supplies, viz: 234,000 pounds of beef, net, 24,000 pounds of bacon or dried salt pork, 96,000 pounds of flour, 7,600 pounds of coffee, 15,200 pounds of sugar, 1,920 pounds of salt, 1,920 pounds soap, 900 pounds of tobacco.

To the agent in charge of the Indians at the Crow Creek agency, Dakota Territory, the same quantity of each article as that agreed to be delivered at the Yankton reservation.

To the agent in charge of the Indians at the Cheyenne agency, Dakota Territory, the same as at the Yankton reservation.

To the agent in charge of the Indians at the Whetstone agency, Dakota Territory, the following, viz: 468,000 pounds of beef, net, 48,000 pounds of bacon or dried salt pork, 192,000 pounds of flour, 15,200 pounds of coffee, 28,800 pounds of sugar, 3,840 pounds of salt, 3,840 pounds of soap, 1,800 pounds of tobacco.

To the agent in charge of the Indians at the Grand River agency, Dakota Territory, the following, viz: 585,000 pounds of beef, net, 60,000 pounds of bacon or dried salt pork, 202,500 pounds of flour, 18,000 pounds of coffee, 36,000 pounds of sugar, 4,500 pounds of salt, 4,500 pounds of soap, 2,250 pounds of tobacco.

The beef is to be of good, merchantable quality, and to be delivered on foot; one-third, or thereabouts, to be delivered on or about the 15th of July; one-third on or about August 1, and the residue on or about the 1st of September, 1870.

The flour is to be of number one spring wheat, in accordance with the sample in the office of the Commissioner of Indian Affairs, Washington, D. C.

All the articles herein named, with the exception of the beef, are to be delivered at the respective agencies, between the 1st and 15th of July, 1870, and are to be of a good merchantable quality.

In consideration of the faithful performance of this agreement on the part of the party of the second part, he shall be paid at the office of the Commissioner of Indian Affairs, Washington, D. C., on presentation of the receipts of the respective agents, the following prices, to wit:

For all beef furnished by him and received by said agents he shall be paid at the rate of six and a half cents (6½c.) per pound gross; for bacon, twenty-five cents (25c.) per pound; for flour, six and a half cents (6½c.) per pound; for coffee, twenty-eight cents (28c.) per pound; for sugar, eighteen cents (18c.) per pound; for salt, eight cents (8c.) per pound; for soap, fifteen cents (15c.) per pound; and for tobacco, eighty-five cents (85c.) per pound.

In witness whereof the parties hereto have hereunto set their hands and seals.

[SEAL.] E. S. PARKER,
Commissioner of Indian Affairs.
[SEAL.] JAMES W. BOSLER.

Signed in presence of—
W. F. CADY.
H. R. CLUM.

Articles of agreement made and entered into at Washington, District of Columbia, this 17th day of September, 1870, between W. F. Cady, Acting Commissioner of Indian Affairs, for and on behalf of the United States of America, of the first part, and J. A. Morrow, of the city of Omaha, State of Nebraska, of the second part:

This agreement witnesseth, that the said party of the first part, for and in behalf of the United States of America, and the said party of the second part, for himself, his

heirs, executors, and administrators, have mutually agreed, and by these presents do mutually covenant and agree, to and with each other as follows, viz:

First. That the said J. A. Morrow, or his heirs, executors, and administrators, shall furnish the Indian Bureau for issue to Indians seven millions one hundred and forty thousand pounds, gross weight, of fresh beef, to be delivered on the hoof, in quantities and at the places hereinafter named.

At the Yankton agency, Dakota Territory, one million pounds, gross weight, to be delivered as follows: about one-ninth of the whole quantity between the 1st and 15th of October, 1870, and thereafter the delivery to be made monthly in such quantity as the Indian agent at said agency shall require.

At the Crow Creek agency, Dakota Territory, the same quantity as at the Yankton agency, and to be delivered in the same manner.

At Cheyenne agency, Dakota Territory, the same quantity as at the Yankton, and in the same manner.

At the Whetstone agency, Dakota Territory, one million four hundred and forty thousand pounds, gross weight, to be delivered as follows: about one-sixth of the whole quantity on or about the 1st day of January, 1871, and thereafter monthly, as at the Yancton agency.

At the Grand River agency, Dakota Territory, two millions seven hundred thousand pounds, gross weight, to be delivered in the same manner as at the Yankton agency.

Second. All the beef cattle furnished under this contract are to be good merchantable cattle, all steers, in good healthy condition, and to average at least one thousand pounds live weight—the weight to be determined by weighing on scales, when practicable.

Third. The said J. A. Morrow shall receive three cents and eighty-eight one hundredths of a cent per pound gross weight for all the beef accepted under this contract.

Fourth. The said party of the first part, for and in behalf of the United States, agrees that payment as aforesaid shall be made, for the beef accepted under this contract, in United States currency, on presentation at the office of Indian Affairs of the receipts of the Indian agents to whom the beef is delivered.

Fifth. The party of the second part further agrees to keep a sufficient number of beef cattle in the vicinity of the respective agencies, to avoid the possibility of any failure on his part to deliver the beef when required by the agents; and should it be ascertained that he is not collecting cattle in the vicinity of said agencies fast enough, or should he fail to deliver them to any agent or agents as called for, the party of the first part shall have the right to purchase, or cause to be purchased, beef cattle as he may elect, at the expense of the party of the second part, who shall be charged with the difference of the cost of the beef so purchased.

Sixth. It is mutually agreed that the party of the first part shall have the right to increase or diminish the quantity of beef to be delivered at any or all of said agencies, provided that the increase shall in no case exceed twenty-five (25) per cent. of the quantity herein agreed to be furnished.

Seventh. No member of Congress, officer, or agent of the Government, or any person employed in the public service, shall be admitted to any share herein, or to any benefit that may arise therefrom.

In witness whereof the undersigned have hereto placed their hands and seals the day and year first above mentioned.

[SEAL.]

W. F. CADY,
Acting Commissioner Indian Affairs.
J. A. MORROW.

Witnesses:
H. R. CLUM,
A. S. H. WHITE.

Articles of agreement, made and entered into this 26th day of September, 1870, by and between E. S. Parker, Commissioner of Indian Affairs, for and on behalf of the United States, of the first part, and J. W. Bosler, of Carlisle, Pa., of the second part, witnesseth, that the said parties have agreed and do hereby covenant and agree, to and with each other in the manner following, to wit:

In pursuance of an advertisement for "supplies for Indians," dated Department of the Interior, office of Indian Affairs, Washington, D. C., August 26th, 1870, the said J. W. Bosler agrees to furnish at Chicago, Ill., seventy thousand pounds of bacon, clear ribbed sides, for the Yankton, Crow Creek and Cheyenne agencies, in Dakota Territory, respectively; one hundred and forty thousand pounds of bacon, clear ribbed sides, for the Whetstone agency, and one hundred and eighty thousand pounds of bacon clear ribbed sides, for the Grand River agency in Dakota Territory, for the sum of (18) eighteen cents per pound. All of which bacon shall be sound and good quality, and shall be inspected by some person satisfactory to the party of the first part.

In consideration of the faithful performance of this agreement on the part of the party of the second part, he or his representatives shall be paid at the office of the Commissioner of Indian Affairs, at Washington, D. C., on the presentation of certificates of inspection, and the bills of lading from the Northwest Railroad Transportation Company, in Chicago, for the bacon above agreed to be furnished.

In witness whereof the parties hereunto have set their hands and seals the day and date above written.

E. S. PARKER,
Commissioner of Indian Affairs.
J. W. BOSLER.

Signed in presence of—

Articles of agreement, made and entered into this 26th day of September, 1870, by and between E. S. Parker, Commissioner of Indian Affairs, for and on behalf of the United States, of the first part, and the Northwest Transportation Company, by Charles D. Woolworth, its secretary, of Sioux City, Iowa, witnesseth: That said parties have agreed, and do hereby covenant and agree to and with each other in the manner following, to wit:

The Northwest Transportation Company agrees to transport from Sioux City, Iowa, to the following named and described places at the following named and described rates, all the goods and supplies of the Indian Department for the year 1870, of whatsoever kind, and in case the river is so low that freight cannot be delivered by boat, the said party of the second part agrees to transport said goods by wagons, to wit: From Sioux City, Iowa, to Ponca, Santee, and Yankton agencies, at two dollars and twenty-five cents per hundred pounds; from Sioux City to Brule and Crow Creek agencies, at four dollars and twenty cents per hundred pounds: from Sioux City to Whetstone agency, at three dollars and twenty cents per hundred pounds; from Sioux City to Cheyenne agency, at five dollars and twenty-five cents per hundred ; from Sioux City to Grand River, at six dollars and twenty-five cents per hundred pounds; from Sioux City to Fort Berthold agency, at seven dollars and fifty cents per hundred pounds.

In consideration of the faithful performance of this arrangement, on the part of the party of the second part, they or their representatives shall be paid at the office of the Commissioner of Indian Affairs at Washington, D. C., on the presentation of the receipted bills of lading, signed by the respective agents or their substitutes, as above enumerated.

In witness whereof the parties hereunto have hereto set their hands and seals the day and date above written.

E. S. PARKER,
Commissioner of Indian Affairs.
[SEAL.] CHARLES D. WOOLWORTH,
Secretary Northwest Transportation Company.

Signed in presence of—
S. M. WINSHIP,
LEM. JONES.

Know all men by these presents, that J. W. Bosler, of Carlisle, Pennsylvania, as principal, and S. S. Sanders and Joe Bosler as sureties, are firmly bound to the United States in the sum of forty thousand dollars; the same to be well and truly paid to the Commissioner of Indian Affairs of the United States or his successor in office.

The condition of the above obligation is as follows:

That whereas the said bonded J. W. Bosler has entered into a contract with the Commissioner of Indian Affairs, dated September 26, 1870, agreeing to furnish a certain amount of bacon, clear-ribbed sides, for the Indian service in Dakota Territory: Now, in case the said contract is well and truly filled, as therein set forth, then this obligation to be null and void; otherwise to remain in full force and effect.

Witness our hands and seals the day and year above written.

J. W. BOSLER. [SEAL.]
JOE BOSLER. [SEAL.]
S. S. SANDERS. [SEAL.]

[25-cent revenue stamp.]

Know all men by these presents, that we, J. A. Morrow as principal, and John McCormick and E. B. Taylor as sureties, all of the city of Omaha, State of Nebraska, are held and firmly bound unto the United States of America in the sum of one hundred and fifty thousand dollars, lawful money of the United States, for which payment, well and truly to be made, we bind ourselves and each of us, our and each of our heirs,

executors, and administrators, for and in the whole, jointly and severally, by these presents.

Sealed with our seals and dated the 17th day of September, in the year of our Lord eighteen hundred and seventy.

The nature of this obligation is such that if said J. A. Morrow, his heirs, executors, and administrators, or any of them, shall and do in all things well and truly observe, perform, fulfill, accomplish, and keep, all and singular the covenants, conditions, and agreements whatsoever, which, on his or their part, are, or ought to be, observed, performed, fulfilled, accomplished, and kept, comprised or mentioned in certain articles of agreement bearing even date herewith, between William F. Cady, Acting Commissioner of Indian Affairs, for and in behalf of the United States, and the said J. A. Morrow, concerning the delivery of beef at certain Indian agencies in Dakota Territory, according to the true intent and meaning of said articles of agreement, then the above obligation to be void; otherwise to remain in full force and virtue.

J. A. MORROW. [SEAL.]
JOHN McCORMICK. [SEAL.]
E. B. TAYLOR. [SEAL.]

DISTRICT OF COLUMBIA, *County of Washington:*

On this 17th day of September, A. D. 1870, personally appeared before me the above-named John McCormick and E. B. Taylor, who, being duly sworn, each on his oath declares that he is worth as follows: John McCormick, on his oath, declares that he is worth the sum of one hundred and twenty thousand dollars, over and above all his legal debts and the property exempt by law from execution; and E. B. Taylor, on his oath, declares that he is worth over and above the sum of thirty thousand dollars over and above the amount of his legal debts and the property exempt by law from execution.

JOHN McCORMICK.
E. B. TAYLOR.

Sworn to and subscribed before me this day and date above written.

CHARLES P. WEBSTER,
Justice of the Peace for the District of Columbia.

Know all men by these presents, that Charles D. Woolworth, secretary Northwest Transportation Company, as principal, and Joab Lawrence and Gholeson G. Russell as sureties, are firmly bound to the United States in the sum of fifty thousand dollars, the same to be well and truly paid to the Commissioner of Indian Affairs of the United States, or his successor in office.

The condition of the above obligation is as follows: That whereas the said bonded Charles D. Woolworth, secretary Northwest Transportation Company, has entered into a contract with the Commissioner of Indian Affairs, dated September 6, 1870, agreeing to transport certain Indian supplies for the year one thousand eight hundred and seventy: Now, in case said contract is well and truly filled, as therein set forth, then this obligation to be null and void; otherwise to remain in full force and effect.

Witness our hands and seals the day and year above written.

[SEAL.] CHARLES D. WOOLWORTH.
Secretary Northwest Transportation Company.

JOAB LAWRENCE. [SEAL.]
GHOLESON G. RUSSELL. [SEAL.]

Witness:
GEO. K. HAZLETT.
JAMES P. CHARLES.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
September 10, 1870.

SIR: I am in receipt of your letter of the 1st instant, inclosing one from Agent Poole, with an estimate of subsistence supplies that will be required at the Whetstone agency for the nine months ending June 30, 1871; and referring to the matter of the location of a new agency for Spotted Tail's band, and to the proper route by which to transport goods and supplies furnished for that band and to be delivered at the new agency.

You are advised in reply that the agent's estimate will receive proper attention; also, that the location of an agency for Spotted Tail's band has been left to Messrs. Brunot and Campbell, members of the board of Indian commissioners, who are at present visiting Red Cloud's band of Sioux Indians.

On completing their business with Red Cloud and his followers, it is expected that they will go to the Whetstone agency, or to the section of country where Spotted Tail desires an agency to be established for his band, and select a suitable place for the location of such agency.

After the agency has been established, the question as to the proper route to be adopted to reach it will be considered.

Very respectfully, your obedient servant,

WM. F. CADY,
Acting Commissioner.

Hon. J. A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs, Yankton, D. T.

WHETSTONE AGENCY, DAKOTA TERRITORY,
August 29, 1870.

SIR: I have the honor to call the attention of the Department to the fact that the rations for issue to Indians at this agency will be entirely exhausted by the 30th of next month, (September,) except beef cattle, of which there is a full supply.

Inclosed I have to submit an estimate for nine months' supply.

It will be observed that no increase is made in component parts of the rations.

Spotted Tail and Swift Bear were promised while in Washington that there should be an increase in sugar and coffee and other parts of the ration. They often speak of this promise. No instructions haye been received at this office in reference to the same.

Very respectfully, your obedient servant,

DE WITT C. POOLE,
Captain United States Army and Indian Agent.

Hon. JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs, Yankton, D. T.

EXECUTIVE OFFICE,
Yankton, Dakota Territory, July 15, 1870.

SIR: I have the honor to inclose herewith a letter from Captain D. C. Poole, Indian agent at the Whetstone agency, dated July 10, relative to the matter of receiving from J. W. Bosler the beef cattle purchased for the use of the Yankton Sioux Indians, and requesting that on account of the scarcity of grass near the agency, and the liability of losing the cattle in the adjoining hilly country, he be allowed to herd them on the Yankton reservation. Touching that portion of the agent's letter which relates to the matter of receiving the cattle from the contractor, I would say that Agent Poole has been directed to follow out the instructions contained in your letter to Mr. Bosler, the contractor.

The bottom lands of the Yankton reservation contain good grass, and are well adapted to the herding of cattle, but as the Yankton Indians will doubtless be opposed to having the Government cattle on these lands, I would suggest that the agent be directed to first make some agreeable arrangement with them in council for this purpose, or to move them to other vacant lands, if suitable ones can be found.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs.

Hon. E. S. PARKER,
Commissioner Indian Affairs, Washington, D. C.

EXECUTIVE OFFICE,
Yankton, Dakota Territory, September 1, 1870.

SIR: I have the honor to inclose herewith letter of Captain De Witt C. Poole, Indian agent at Whetstone agency, dated August 29, together with his estimates of subsistence supplies required of bacon, coffee, flour, soap, and salt, for five thousand Indians, commencing October 1, 1870, and to last until the 30th of June, 1871.

I will state, for your information, that Spotted Tail expects to go with his band to a reservation about thirty miles above the forks of White River, and between the two branches.

Spotted Tail says that this was promised him, and he is somewhat annoyed at the delay, saying that it is utterly impossible for him to hold and control his people unless the proper steps are taken within thirty days to carry out this promise, and that it

will be useless for him to attempt to keep his people together and under the proper subjection. He fears, in case of delay, that a great number may be induced to join Indians who are unfriendly to the Government.

Should he be allowed to go, as he wishes, to this reservation, he will be located about one hundred and seventy miles from Whetstone, and about one hundred miles from the Lower Brulé agency.

The road from the Lower Brulé agency is much more practicable, not only on account of the saving of seventy miles of hauling, but a road can be made at or near the river bank, where wood and water can be procured, and this will make the freighting much cheaper per mile than from Whetstone agency. I would suggest the propriety of delivering rations for Spotted Tail's camp in the ratio of, say, three out of five thousand at the Lower Brulé agency, to be transported by wagon from that point.

I would also state that if this is done, a warehouse for the storage of the goods at Lower Brulé agency should be erected at once, so as to properly care for the supplies before they are shipped by wagon.

Very respectfully, your obedient servant,

JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs.

Hon. E. S. PARKER,
Commissioner Indian Affairs, Washington, D. C.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, June 18, 1870.

SIR: I am in receipt of your letter of the 11th instant, inclosing one from Agent French, relative to certain subsistence stores that will be required for the use of Indians at the Crow Creek agency, and requesting that a supply of the articles named in the agent's letter be sent to the agency at the earliest moment possible.

You are advised, in reply, that proper steps have been taken by this Bureau to have the necessary supplies furnished for the use of the Indians at said agency. The supplies will probably reach that place between the 1st and 15th proximo, and you will please advise Agent French accordingly.

Very respectfully, your obedient servant,

WM. F. CADY,
Acting Commissioner.

Hon. JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs, Yankton, D. T.

EXECUTIVE OFFICE,
Yankton, Dakota Territory, July 19, 1870.

SIR: I have the honor to inclose herewith Agent Hearn's monthly report for June, 1870.

Very respectfully, your obedient servant,

J. A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs.

Hon. E. S. PARKER,
Commissioner Indian Affairs, Washington, D. C.

GRAND RIVER AGENCY, D. T., *July* 1, 1870.

SIR: I have the honor to make the following report for the month of June, 1870:

The number of Indians located at this agency the past month was 1,006 lodges; they have behaved themselves remarkably well.

We are entirely out of flour and bacon; coffee and sugar will last until July 31, 1870, and corn until January, 1871.

Many Indians are dissatisfied, and think the Government is going to stop feeding and clothing them, as their supply of provisions for the coming year has not arrived and they are living on corn and beef.

I respectfully request that supplies be forwarded as soon as possible, if they are not already on the way.

I am, very respectfully, your obedient servant,

J. A. HEARN,
Captain and Brevet Major United States Army, Indian Agent.

Hon. E. S. Parker,
Commissioner of Indian Affairs, Washington City, D. C.

(Through Hon. J. A. Burbank, Superintendent.)

P. S. Since writing the above, I have been informed that three young men belonging to the Oncpapa band of Sioux have stolen eight animals, as follows:

John B. Dillon, one American horse and three mules; Thomas Smith, one mule; George Carey, one Indian horse; Commissary Department, United States Army, two American horses.

J. A. HEARN.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
Washington, D. C., June 18, 1870.

SIR: I have the honor to state that arrangements have been made by this Bureau with James W. Bosler, esq., for the delivery of certain subsistence supplies for the use of the Indians on the Yankton, Whetstone, Cheyenne, Crow Creek, and Grand River reservations. Among these supplies there will be a quantity of beef, and the cattle will have to be driven to the different reservations, where they are to be slaughtered, and the beef issued to the Indians. There will, doubtless, be considerable risk to the contractor in transporting these cattle, owing to the wild and unsettled condition of the country through which they will have to be driven; and, in view of this fact, I respectfully recommend that the Secretary of War be requested to furnish Mr. Bosler with suitable escorts, from Forts Randall and Sully, to the respective reservations whenever he shall require them.

Very respectfully, your obedient servant,

E. S. PARKER, *Commissioner.*

Hon. J. D. COX, *Secretary of the Interior.*

DEPARTMENT OF THE INTERIOR,
Washington, D. C., June 21, 1870.

SIR: Arrangements have been made by the Indian Bureau, with James W. Bosler esq., for the delivery of subsistence supplies for the Indians on the Yankton, Whetstone, Cheyenne, Crow Creek, and Grand River reservations.

As beef cattle are included in the supplies, which are to be driven to the points above named, I have the honor to request that the contractor may be furnished with suitable escorts from Forts Randall and Sully to the respective Indian reservations, whenever he shall require them.

Very respectfully, your obedient servant,

J. D. COX, *Secretary.*

The Honorable SECRETARY OF WAR.

WAR DEPARTMENT,
Washington City, July 11, 1870.

SIR: Referring to your letter of the 21st ultimo, I have the honor to inform you that instructions have been given to the commanding officer at Fort Randall, Dakota Territory, to furnish an escort from that post to Fort Sully, Dakota Territory, to James W. Bosler, for his train of stores and herd of cattle intended for the Indian service, and that the commanding officer at Fort Sully has been directed to furnish an escort from that post to the Yankton, Whetstone, Cheyenne, Crow Creek, and Grand River Indian reservations.

Mr. Bosler should be notified to apply to the commanding officer at Fort Randall whenever the escort is required, and should also be informed that owing to the small garrisons it will not be practicable to furnish more than one escort from each post. The trains and herds must, therefore, be concentrated before leaving Fort Randall.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

The Honorable SECRETARY OF THE INTERIOR.

[Referred to in Mr. Colyer's testimony.]

WASHINGTON, D. C., *July* 19, 1870.

SIR: Will you favor our board of Indian commissioners with your interpretation of that portion of the new Indian appropriation law which says:

"It shall be the duty of said commissioners to supervise all expenditures of money

appropriated for the benefit of the Indians in the United States, and to inspect all goods purchased for said Indians, in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commissioners in making purchases of said goods."

It is more particularly with reference to the first clause, as contained in the first three lines, that there may be a word or two of explanation desirable.

Our wish is simply to obtain from you your idea of about what the House of Representatives expect from us, in order that we may neither transcend nor fall short of our duty under the above law.

Very respectfully, your obedient servant,

VINCENT COLYER,
Secretary.

HON. AARON A. SARGENT,
Chairman Sub-committee on Appropriations, House of Representatives.

COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES,
July 20, 1870.

DEAR SIR: In answer to your note asking my interpretation of the following provision of the new Indian appropriation bill, viz: "It shall be the duty of said commissioners to supervise all expenditures of money appropriated for the benefit of the Indians in the United States, and to inspect all goods purchased for said Indians, in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commissioners in making purchases of said goods," I reply that it seems to me its meaning is on the surface. Congress desires that your commission shall oversee and advise in all contracts for or purchases of Indian goods; shall see that the articles bought are suitable, and the prices reasonable; that the kind and amount of goods contracted for are delivered; that annuities are properly paid; that presents are justly and judiciously given; in short, that you shall "supervise all expenditures of money appropriated for the Indians." This is expressly made your duty by the statute, and your board must fulfill it, or resign. It makes it the duty, also, of the Indian Commissioner to consult your board in all purchases for the Indians. You do not expend the money, for that is the duty of the Commissioner. But you have a right to know of and advise in all expenditures, all receipts for goods, &c. In case of a difference of opinion between yourself and the officer charged with the disbursement, you can only advise and report to the Secretary the facts which induce your dissent. I do not think, however, in view of the earnest desire of the Secretary and the Commissioner of Indian Affairs for an honest and efficient administration of Indian affairs, that your board will have any difficulty in complying with the requirements of the provision in question.

Respectfully,

A. A. SARGENT.

VINCENT COLYER, Esq.,
Secretary Board of Indian Commission.

WASHINGTON, *D. C., February* 3, 1871.

I certify that the above are true copies of the original papers on file in this office.

VINCENT COLYER,
Secretary of the Board of Indian Commissioners.

Memorandum

Of contract made and entered into this 25th day of March, 1868, in the city of New York, by and between Charley D. Woolworth, secretary and general agent of the Northwest Transportation Company, on behalf of said company, which is an incorporated company, of which Joel Lawrence, of St. Louis, is president, of the first part, and N. G. Taylor, Commissioner of Indian Affairs of the United States, of the second part, as follows, to wit:

1. The said party of the first part agrees to transport the goods and merchandise for the Indian Department that may be required for the Indians and agencies of the Upper Missouri River and on said river, above Sioux City, from the 1st day of April, 1868, to October 1, 1868. To receive said goods in the city of New York and Chicago, and to transport them by the most direct route by railroad to Sioux City, Iowa, and from there by first-class steamers to their several places of destination, and to deliver the same to the agent or agents of the Indian Department. The said party of the first part will have an agent in the city of New York to receive said goods, and ship them immediately.

2. In consideration of the faithful performance of all the stipulations of this contract, by the party of the first part, the said party of the second part shall pay or cause to be paid to the said party of the first, as follows:

3. From the city of New York to all points between Yankton and Fort Sully, including both, $7 72 per 100 pounds. From New York to Fort Rice, and points between Sully and Rice, $8 72 per 100 pounds. From New York to Fort Union, and points between Rice and Union, $9 72 per 100 pounds. From New York to Muscleshell, and points between Union and Muscleshell, $10 72 per 100 pounds. From New York to Fort Benton, and points between Muscleshell and Benton, $11 72 per 100 pounds; and for all freight transported from Chicago to either of the above points, $2 less per 100 pounds than from New York to same points. That bills of lading, receipted by the agent or consignee, approved by the superintendent Indian affairs for Dakota, except as to Fort Benton, of said goods at the several places of delivery of said goods, shall be evidence of the proper delivery of the same, and upon the presentation of said receipted bills of lading payment will be made at the office of the Commissioner of Indian Affairs in the city of Washington, at the rates above mentioned, in such funds as may be provided said Commissioner for such purpose.

4. The said party of the second part also agrees that all the goods shipped for the points above mentioned during the time specified in this contract, and over which the Commissioner of Indian Affairs has control, shall be delivered to the party of the first part, or their agent, for shipment.

5. Nothing in this contract shall be construed to prevent the Commissioner of Indian Affairs or any other agent of the Indian Department from purchasing goods and supplies delivered at the agencies or points above mentioned.

CHARLES D. WOOLWORTH,
Secretary Northwest Transportation Company.
N. G. TAYLOR,
Commissioner of Indian Affairs.

Attest:
J. W. BOSLER.
G. B. KETLER.
[5-cent revenue stamp.]

Articles of agreement

Made and entered into this 13th day of May, 1869, in the city of New York, by and between G. T. Nutter, agent of the Northwest Transportation Company, which is an incorporated company, of which Jacob Lawrence, of St. Louis, is president, on behalf of said company, of the first part, and E. S. Parker, Commissioner of Indian Affairs of the United States, of the second part, as follows, viz:

The said party of the first part agrees to transport the goods and merchandise for the Indian Department which may be required for the Indians and agencies of the Upper Missouri River, from this date (May 13, 1869) to July 12, 1869; to receive said goods in the city of New York and to transport them by the most direct route by railroads, in sound and water-proof cars, to Sioux City, Iowa, and from there by first-class steamers to their respective places of destination, and to commence the transportation of said goods as soon as notified by the Commissioner of Indian Affairs that said goods are ready to be shipped, and to complete such transportation as quickly as possible and without any unnecessary delay.

2. In consideration of the faithful performance of all the stipulations of this contract by the party of the first part, the said party of the second part shall pay or cause to be paid to the said party of the first part for such transportation, as follows:

From the city of New York to all points on the Missouri River between Yankton and Fort Sully, including both, $7 72 per 100 pounds. From New York to Fort Rice, and all points between Fort Sully and Fort Rice, $8 72 per 100 pounds. From New York to Fort Buford, and all points between Fort Rice and Fort Buford, $9 72 per 100 pounds. From New York to Muscleshell, and all points between Fort Buford and Muscleshell, $10 72 per 100 pounds. From New York to Fort Benton, and all points between Muscleshell and Fort Benton, $11 72 per 100 pounds.

Bills of lading for said goods, receipted by the respective agents or superintendents (if agents, the same to be certified by the superintendents) at the several places of delivery, shall be evidence of the proper delivery of the same, and upon presentation of said receipted bills of lading, payment will be made at the office of the Commissioner of Indian Affairs, in the city of Washington, at the rates above mentioned, in such funds as may be provided said Commissioner for said purpose.

The said party of the second part also agrees that all the goods shipped from New York City, for the points above mentioned, during the time specified in this contract,

viz, from this date to July 12, 1869, over which the Commissioner of Indian Affairs has control, shall be delivered to the party of the first part, or his agent, for shipment.

It is, however, further agreed that before the United States shall be bound by this contract, a bond in the sum of $20,000 shall be executed by the said President of the Northwest Transportation Company, with two or more good and sufficient sureties, said bond to be conditioned for the faithful performance of this contract, in all its particulars, by the said party of the first part.

In witness whereof, the parties hereto have hereunto set their hands and seals, on the day and year above mentioned.

G. T. NUTTER, [L. S.]
Agent Northwest Transportation Company.
E. S. PARKER, [L. S.]
Commissioner of Indian Affairs.

Signed in the presence of—
LEWIS HAYDEN.

Statement of shipments of supplies on the Missouri River during the year 1870, *under the contracts of H. K. Hazlett, dated February* 17, 1870, *and George K. Hazlett, dated February* 16, 1870.

Month.	Military supplies.	Indian supplies.	Total.
1870.			
	Pounds.	*Pounds.*	*Pounds.*
March	816,261	19,161	835,422
April	2,081,075	228,285	2,309,360
May	2,118,230	138,755	2,256,985
June	1,810,959	42,334	1,853,293
July	235,461	.....	235,461
August	1,390,744	.....	1,390,744
September	592,360	82,770	675,130
October	881,138	.....	881,138
November	95	.....	95
Total	9,926,323	511,305	10,437,628

REMARKS.—Colonel Holabird, chief quartermaster Department of Dakota, reports also 65,794 pounds, shipped in November, which do not appear as yet as paid for. This was after the expiration of the contract season, and was probably not paid for under the contract terms.

Statement of weights of supplies shipped on the Missouri River under the Hazlett contracts during the year 1870, *from the accounts of the disbursing officers of the Quartermaster's Department who paid for the services.*

(To replace the imperfect statements handed the House Sub-committee on Indian Affairs, at the time General Meigs appeared under its summons.)

By the terms of these contracts the United States could require of the contractor transportation for 20,000,000 pounds each, making a total of 40,000,000 pounds. One contract starting from St. Louis, the other from Chicago.

M. C. MEIGS,
Quartermaster General, Brevet Major General U. S. Army.

QUARTERMASTER GENERAL'S OFFICE, *February* 1, 1871.

OSAGE AGENCY, KANSAS,
Montgomery P. O., 10th mo. 13, 1870.

ESTEEMED FRIEND: This day I forward by express to thy address, as per request of Vincent Colyer, secretary of commission, one scarlet blanket, 3-point, and one Mexican blanket; the first as a sample of 50 pair out of 200, at $8 per pair, sent as presents to the Osage Indians, from the house of Buckley, Welling and Company, New York City, of date August 23, 1870. The remaining 150 pair were a grade better.

The Mexican blankets are billed $6 50 apiece. They are not worth half that money to Indians, as a baby can slip through them without breaking a warp or filling.

Very respectfully,

ISAAC T. GIBSON,
United States Indian Agent.

W. E. DODGE,
Indian Peace Commissioner.

Williamson's instructions.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., September 8, 1870.

SIR: Having been appointed a special agent of the United States to make payment to the Creek soldiers, loyal refugees, and freedmen, under the fourth article treaty of June 14, 1866, with the Creek Nation; to the Pottawatomie Citizen Indians in Kansas, under the third article treaty of November 15, 1861, as modified by the treaty of March 29, 1866, with the Pottawatomies; to the Peoria, Kaskaskia, Wea, and Piankeshaw Citizen Indians, under the twenty-eighth article treaty of February 23, 1867, with said tribes and other Indians; and to the Seneca, Mixed Seneca and Shawnee, and Quapaw claimants, under the 12th article of the treaty last referred to; and having filed your bond for the faithful performance of your duties as such special agent, the following instructions are herewith presented for your information and guidance:

It is desired that the payment to the Creek soldiers, loyal refugees, and freedmen be made first, and I have, therefore, this day caused a requisition to issue for $100,000, the amount provided to be paid under said fourth article of the Creek treaty of 1866 to be remitted to you present, from the appropriation "fulfilling treaty with Creeks," (payment of loyal Creeks, &c.,) for the proper care and disposition of which sum you will be held to account under your bond.

The payment to said soldiers, refugees, and freedmen will be made on the "schedule of payments" on pay-roll herewith inclosed, which shows the names of the claimants, the amount awarded to each person by the commission appointed to investigate the several claims, and the pro rata of the $100,000, being $\frac{544}{1000}$ of one dollar, on the sum awarded, to which each claimant is entitled.

In making the payment, each individual to whom the money is due and paid must be required to sign said pay-roll, opposite to his or her name, in the presence of two or more witnesses and an interpreter. One of the witnesses should sign the pay-roll opposite to the names of the persons whose signatures he witnessed, and the others should attach their certificate at the end of the pay-roll, to the effect that they were present and saw the payment made in each case as therein stated. The interpreter, in addition to the foregoing, should certify that he was present and explained to the several claimants for what object and on what account the money was paid. It is desired, if practicable, that one of the two members—hereafter named—of the board of Indian commissioners should attest the signatures, and that the gentlemen who accompany you from this city, and any other person or persons that may witness the payment, should attach their certificate at the end of the pay-roll.

Messrs. J. D. Lang and Vincent Colyer, of the board of Indian commissioners, are expected to be present at the payment; and, in compliance with the instructions of the Honorable Secretary of the Interior, I have designated Mr. G. F. Jocknick, a clerk in this office, and Mr. J. E. Pilkington, of the Interior Department, to accompany you from this city to witness the payment and render you such clerical assistance as may be necessary. It is also expected that Agent Field will be present, at least a portion of the time, while the payment is being made. He is instructed to do so by the inclosed letter, which you will please deliver to him, and also to have the agency interpreter attend during the entire time, to make such explanations to the claimants as may be necessary, as well as to witness the payment.

In no case must a payment be made to any claim agent, attorney, or trader, or to any other person than the one in whose favor the award was made; unless where the claimant may have died, in which event payment will be made to the heirs or legal representatives of such deceased claimant. In determining the proper person or persons to whom payment of the amount due to a deceased claimant should be made, you will be governed by the laws, customs, and usages of the Creek Nation. Letters of administration must, in all cases, be presented by the individual to whom a payment is made as administrator; and in case you are unable to obtain a copy thereof properly certified by a probate judge, you will cause a copy to be made and have the same certified to be a correct transcript of the original, by one or both of said members of the board of Indian commissioners; or, should neither of said members be present to certify, it can be certified by yourself. When payments are made direct to the heirs of deceased claimants, their identity must be fully established, and the validity of their claims must be acknowledged by the proper authority of the Creek Nation.

Great care must be exercised in ascertaining and determining the identity of the claimants, and of the heirs and representatives of those who may have deceased; and in case any one entitled to share in the payment cannot be found, his or her portion of the money will be retained by you, and should the amount so retained not exceed the sum of $10,000, you are authorized to transfer the same to Enoch Hoag, superintendent of Indian affairs at Lawrence, Kansas, taking his receipt therefor, which will be considered a sufficient voucher in the settlement of your accounts, and giving him at the same time a copy of these instructions, or so much thereof as refers to the manner of disbursing the money, with such information in regard to the matter as you may be able to give him, for his guidance in completing the payment. Should the amount retained as above exceed said sum of $10,000, you will deposit the same in the nearest United States depository to the credit of the United States, and transmit the original certificate of deposit to this office.

After making payment to the Creeks, you will proceed to pay the Senecas, Mixed Senecas and Shawnees, and Quapaws; the Peorias, Kaskaskias, Weas, and Piankeshaws; and the Pottawatomies, in the order named. The money to make these payments will be placed to your credit with the Assistant Treasurer of the United States at St. Louis, Missouri, and the necessary pay-rolls and instructions will be forwarded to the same place, to the care of said Assistant Treasurer, on being advised by you as to the time when the same will be required.

By direction of the Secretary of the Interior, you will be required to render your accounts to this office immediately after each payment.

Very respectfully, your obedient servant,

W. F. CADY,
Acting Commissioner.

J. A. WILLIAMSON, Esq.,
United States Special Agent, Washington, D. C.

Articles of agreement

Made this 15th day of July, 1869, by and between Samuel M. Janney, superintendent of Indian affairs, of the one part, and John Finn, of St. Louis, State of Missouri, of the other part.

This agreement witnesseth, that the said Samuel M. Janney, superintendent of Indian affairs, for and in behalf of the United States of America, and the said John Finn, for himself, his heirs, executors, and administrators, have mutually agreed, and by these presents do mutually covenant and agree, to and with each other, in manner following, to wit:

1st. That the said John Finn shall deliver at the Winnebago agency, at their reservation, in Nebraska, the articles, in quantity and quality as hereinafter specified, and at the prices designated, as herein agreed upon, viz: 7,000 pounds of beef per week, net weight, at the rate of 6.90 cents per pound; also, 1,500 pounds of salt per month, at the rate of 2 cents per pound, up to the first day of July, 1870.

2d. The said articles of subsistence to be subject, in the furnishing thereof, to the following restrictions, as designated in the published proposal of Samuel M. Janney, superintendent of Indian affairs, dated 6th mo., (June,) 23, 1869, and appearing in the papers of Omaha, Nebraska, viz:

"All articles of subsistence furnished must be of good quality, and subject to inspection and rejection by the agent of the Winnebagoes.

"The right is reserved to increase or diminish the amount of supplies at the discretion of the superintendent of Indian affairs for the northern superintendency; also to terminate the contract that may be entered into, on giving the contractor, or contractors, six weeks' notice."

3d. Payment shall be made by the superintendent of Indian affairs at Omaha, Nebraska, when funds are placed in his hands for that purpose; but in the event of the superintendent of Indian affairs being without funds, then payment to be made as soon after as funds may be received for that purpose.

4th. That in case of failure or deficiency in the quantity or quality of the stores to be delivered, the superintendent of Indian affairs shall have the power to supply the deficiency by purchase, and the said John Finn will be charged with the difference of cost.

In witness whereof the undersigned have hereunto placed their hands and seals the day and date first above written.

SAM'L M. JANNEY, [SEAL.]
Superintendent Indian Affairs.
JOHN FINN. [SEAL.]

Witness:
THOS. J. SANDERS.
[5-cent int. rev. stamp.]

Articles of agreement

Made this 4th day of October, 1869, by and between Samuel M. Janney, superintendent of Indian affairs, of the one part, and Walter A. Burleigh, of Bonhomme, Dakota Territory, of the other part.

This agreement witnesseth, that the said Samuel M. Janney, superintendent of Indian affairs, for and in behalf of the United States of America, and the said W. A. Burleigh, for himself, heirs, executors, and administrators, have mutually agreed, and by these presents do mutually covenant and agree, to and with each other, in manner following, to wit:

1st. That the said W. A. Burleigh shall deliver at Santee Sioux agency the articles, in quantity and quality, as hereafter specified, and at the prices designated, as herein agreed upon, viz: 5,000 pounds of beef per week, at the rate of 7.22 per pound, net weight; also, 5,000 pounds of flour per week, at 3.35 per pound. The said articles of subsistence to be subject, in the furnishing thereof, to the following restriction, as designated in the published proposal of Samuel M. Janney, superintendent Indian affairs, dated September 12, 1869, and appearing in the papers of Omaha, Nebraska, viz: "All articles of subsistence furnished must be of good quality, and subject to inspection and rejection by the agent of the Santee Sioux. The right is reserved to increase or diminish the amount of supplies, at the discretion of superintendent of Indian affairs for the northern superintendency; also, to terminate the contract that may be entered into on giving the contractor six weeks' notice."

3d. Payment shall be made by the superintendent of Indian affairs at Omaha, Nebraska, when funds are placed in his hands for that purpose; but in the event of the superintendent of Indian affairs being without funds, then payment to be made as soon after as funds may be received for that purpose.

4th. That in case of failure or deficiency in the quantity or quality of the stores to be delivered, the superintendent of Indian affairs shall have the power to supply the deficiency by purchase, and the said W. A. Burleigh will be charged with the difference of cost.

In witness whereof the undersigned have hereunto placed their hands and seals the day and date first above written.

SAM'L M. JANNEY,
Superintendent Indian Affairs.
W. A. BURLEIGH.

Witness:
WM. BROWN to S. M. Janney.
ELIZA F. JANNEY to S. M. Janney.

[50-cent int. rev. stamp.]

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., July 13, 1870.

SIR: I am in receipt of your letter of the fifth instant, inclosing one from Agent Poole, who submits an estimate for employés required for herding beef cattle at the Whetstone agency.

Agreeably to your recommendation, the agent will be allowed to employ one herder and six Indian assistants, at the salaries named in said estimate; also, to purchase the horses, saddles and bridles referred to in such estimate, at a cost not to exceed $75 for each horse and set of equipments complete. The employés will be required to subsist themselves; or, if furnished rations, a corresponding reduction will be made in the amount paid to each for his services.

You will please advise Agent Poole that, with the cattle received from the Commissary Department, and those to be delivered by Mr. Bosler, it is expected there will be enough beef at said agency to last six months. He should advise the Indians belonging to the Whetstone agency of the fact that all these cattle are intended for them; that they must last them six months at least, and that care should be taken to prevent any of them from being lost, or uselessly killed.

Very respectfully, your obedient servant,

E. S. PARKER, *Commissioner.*

Hon. JOHN A. BURBANK,
Governor and ex-officio Superintendent Indian Affairs, Yankton, D. T.

Certificate of payments.

Gregory & Edgar, Yankton:
December 3, 1870—Flour, at $3 20 per sack of 98 pounds, delivered at Ponca agency free of expense.

Walter A. Burleigh:
September 30, 1870—Flour for Santee reservation, at $3 35 per 100 pounds, and beef, at $7 22 per 100 pounds, net weight.

J. C. Hoffmayr, Council Bluffs:
November 29, 1870—$430, for 200 sacks flour, at $2 15, furnished October 27, 1870.

S. P. Saunders:
November 23, 1870—Furnished flour to Santee agency during October, 1870, for $3 35 per 100 pounds.

W. A. Burleigh:
November 23, 1870—$1,764 81, for beef, at $7 22 per 100, and flour, at $3 35 per 100, October 31, 1870.

Gregory, Bros. & Co.:
October 6, 1870—Delivered at Ponca agency: flour, at $3 20; coffee, at 23 cents; sugar, at 14 cents.

John Finn:
October 3, 1870—$1,080 54 for 15,660 pounds beef, furnished in August, for Winnebagoes, at $6\frac{9}{10}$ cents per pound.

W. A. Burleigh:
September 22, 1870—$2,492 90, for beef, at $7 22 per 100, and flour, at $3 35 per 100, furnished August, 1870, at Santee Sioux agency.

J. A. Burbank:
September 21, 1870—$23,000, advanced to him by requisition.

Poultney & Trimble, Baltimore:
September 8, 1870—$10,679 50, for hardware, furnished August 31, 1870.

W. A. Burleigh:
August 22, 1870—$2,114, for beef, at $7 22 per 100, and flour, at $3 35 per 100, furnished Santee Sioux, July, 1870.

John Finn:
August 16, 1870—$1,365 16, for 19,785 pounds beef, at $6\frac{9}{10}$, furnished August, 1870, for Winnebago Indians.

Durfee & Peck:
August 6, 1870—$53,494 37, for supplies at Fort Berthold: hay, $20 per ton; sugar, 30 cents; tobacco, $1; 50 pairs 3-point blankets, at $17 50 per pair; bacon, 40 cents; flour, $20 per sack; corn meal, 22 cents per pound.

W. A. Burleigh:
July 21, 1870—$2,313 12, for beef, at $7 22 per 100, and flour, at $3 35 per 100; delivered at Santee reservation.

John Finn:
July 15, 1870—$1,526 59, for beef, at $6\frac{9}{10}$ cents per pound, net, for Winnebagoes.

Tootle & Charles:
July 13, 1870—$1,493 88, for freight from Sioux City to Fort Berthold, at 4 cents per pound.

W. A. Burleigh:
June 29, 1870—$2,378 25, for beef, at $7 22 per 100, and flour, at $3 35 per 100, furnished Santee Sioux, June, 1870.

Green & Wattles:

1870.		
September 22	20,467 pounds of tobacco, at 65 cents	$13,315 10
14	308,179 pounds of sugar, at 11½ cents	35,440 58
8	150,472 pounds of coffee, at 21½ cents	32,726 19
	Total	81,481 87

Buckley, Welling & Co.:

1870.		
Sept. 30	Dry goods and hats, furnished August 18, 1870	$6,125 93
23	Dry goods and hats, furnished August, 1870	2,322 99
22	Goods, furnished August, 1870	3,925 06
22	Goods, furnished August, 1870	5,945 27
17	Dry goods and hats, furnished August, 1870	55,057 71
14	1,000 pounds flour, furnished August 15, 1870, by Nelson Story	1,000 00
8	Dry goods, furnished August 23, 1870	7,484 82
July 22	Goods, furnished July 15, 1870	727 46
June 27	Dry goods, furnished June 16, 1870	1,068 58
20	Merchandise, furnished June 15, 1870	250 00
	Total	83,907 82

H. D. Booge & Co.:
December 14, 1870—$1,897 08, sugar and coffee, furnished November 7, 1870.

C. E. & D. T. Hedges, Sioux City:
December 5, 1870—$2,797 23, for 79,921 pounds of beef, at 3½ cents, furnished October 31, 1870.

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
January 25, 1871.

I certify the foregoing to be a correct abstract from settlements on file in this office.
E. B. FRENCH, *Second Auditor.*

Articles of agreement

Entered into this 18th day of June, 1869, between Henry F. Clarke, assistant commissary general of subsistence and brevet major general in the Army of the United States of America, of the one part, and Edward Fenlon, of the city of Leavenworth, in the county of Leavenworth, in the State of Kansas, of the other part.

This agreement witnesseth: That the said Henry F. Clarke, for and on behalf of the United States of America, and the said Edward Fenlon, for himself, his heirs, executors, administrators, (or for himself, his heirs, executors, and administrators, as the case may be,) have mutually agreed, and by these presents do mutually covenant and agree, to and with each other, as follows, viz:

1. That the said Edward Fenlon shall deliver to the acting commissary of subsistence United States Army, or the authorized agent of that department, at the usual place of delivery at Whetstone Creek, Dakota Territory, the following supplies for issues to Indians, viz: 2,475 head of beef cattle on the hoof.

To deliver to the like officer or agent, at the usual place of delivery at Big Cheyenne River, Dakota Territory, for a like purpose, 3,025 head of beef cattle on the hoof; and to the like officer or agent, at the usual place of delivery at Grand River, Dakota Territory, for a like purpose, 3,575 head of beef cattle on the hoof.

2. The beef cattle must be steers, in good healthy condition, and must average as nearly as possible 1,000 pounds live weight, the weight to be determined by weighing on the scales when delivered. Their delivery must commence at each of the places named on or before July 31, 1869, and continue until the number provided for by this contract is delivered, at the rate of 225 head per month at Whetstone Creek, 275 at Big Cheyenne River, and 325 at Grand River; and there shall be at all times, at each place named, a full proportional supply of beef cattle for issues to the Indians supplied therefrom.

3. The beef cattle provided for by these specifications for the respective places named herein for their delivery are required to be held by the contractor, the said Edward Fenlon, sufficiently near thereto that he may, with certainty, and at the rate and under the conditions above specified, deliver them weekly, semi-monthly, or monthly, as the officers or agents of the Subsistence Department may require; and the total number of them due under this contract, at each of those places, shall be in like position to them by September 15, 1869.

4. For the beef cattle delivered and accepted in accordance with the foregoing specifications, the contractor, the said Edward Fenlon, shall receive as follows, viz: For each and every 100 pounds of beef cattle, live weight, delivered at Whetstone Creek, $4 44¾; for each and every 100 pounds of beef cattle, live weight, delivered at Big Cheyenne River, $4 44¾; and for each and every 100 pounds of beef cattle, live weight, delivered at Grand River, $4 44¾.

Payment to be made in the currency of the country by the purchasing commissary of subsistence United States Army, at Chicago, Illinois, on the presentation of proper receipts of the officers of the Subsistence Department United States Army, or its authorized agents, at the respective points of delivery, if he has funds for the purpose; if not, as soon as they can be obtained.

5. If at any time there should be good reason for believing the contractor, the said Edward Fenlon, will not have at all times an ample supply of beef cattle as herein specified ready for delivery, the Subsistence Department United States Army, through its officers or authorized agents, shall have power to purchase a full sufficiency of such supplies, and the difference between the contract price and the price paid by the Subsistence Department shall be charged to the contractor, the said Edward Fenlon.

6. No member of Congress, officer or agent of the Government, or any person employed in the public service shall be admitted to any share herein, or to any benefit which may arise therefrom.

In witness whereof the undersigned have hereunto set their hands and seals the date first above written.

H. F. CLARKE, [SEAL.]
Brevet Major General and Acting Commissary General of Subsistence.
EDWARD FENLON. [SEAL.]

Witnesses:
R. MACFEELY,
Brevet Colonel and Commissary Subsistence U. S. Army.
CHAS. LANCEY.

JANUARY 27, 1871.

A true copy.

B. DUBARRY,
Major and Commissary of Subsistence.

Articles of agreement

Entered into this 6th day of July, 1869, between Henry F. Clarke, assistant commissary general of subsistence and brevet major general in the Army of the United States of America, of the one part, and Edward Fenlon, of the city of Leavenworth, in the county of Leavenworth, in the State of Kansas, of the other part, being supplementary to the articles of agreement entered into by the said parties the 18th day of June, 1869, for the delivery of beef cattle at Whetstone Creek, Big Cheyenne River, and Grand River, Dakota Territory.

This supplementary agreement witnesseth: That the said Henry F. Clarke, for and on behalf of the United States of America, and the said Edward Fenlon, for himself, his heirs, executors, and administrators, have mutually agreed, and by these presents do mutually covenant and agree, to and with each other as follows, viz:

1. That article 1st of the articles of agreement entered into between said parties on the 18th day of June, 1869, for the delivery of beef cattle for issues to Indians at Whetstone Creek, Big Cheyenne River, and Grand River, Dakota Territory, shall be modified or changed so as to require as follows, viz:

That the total number of beef cattle on the hoof required to be delivered at Whetstone Creek shall be reduced to 1,935 head, the total number of beef cattle on the hoof to be delivered at Big Cheyenne River shall be reduced to 2,025 head, and the total number of beef cattle on the hoof to be delivered at Grand River shall be reduced to 3,215 head. And there shall be delivered to the acting commissary of subsistence, or other authorized agent of the Subsistence Department, at the usual place of delivery, at the Yankton Indian Agency, Dakota Territory, 900 head of beef cattle on the hoof; and to like officer or agent, at the usual place of delivery, at the Crow Creek Indian agency, Dakota Territory, 1,000 head of beef cattle on the hoof.

2. The beef cattle delivered at each of the places named in the preceding article must be steers, in good healthy condition, and average as nearly as possible 1,000 pounds live weight, the weight to be determined by weighing on the scales when delivered. Their delivery to commence at each of those places on or before July 31, 1869, and continue until the number provided for by this contract is delivered, at the rate, as nearly as practicable, of 82 head per month at Yankton agency, 176 head at Whetsone Creek, 91 head at Crow Creek agency, 184 head at Big Cheyenne River, and 292 head at Grand River; and there shall be at all times, at each place named, a full proportioned supply of beef cattle for issue to the Indians supplied therefrom.

3. The party of the first part agrees to pay the party of the second part $125 per month for each of the two additional points of deliveries provided for in this supplementary contract, to pay for herding at such points.

4. The articles of agreement entered into between the said Henry F. Clarke and Edward Fenlon, the 18th day of June, 1869, for the delivery of beef cattle on the hoof at Whetstone Creek, Big Cheyenne River, and Grand River, Dakota Territory, except so far as modified or changed by these supplementary articles of agreement, shall remain in full force and be construed as applying to the deliveries of beef cattle on the hoof at Yankton and Crow Creek Agencies, herein provided for.

In witness whereof the undersigned have hereunto set their hands and seals, the date first above written.

H. F. CLARKE, [SEAL.]
Brevet Major General and Acting Commissary General Subsistence.
EDWARD FENLON. [SEAL.]

Witnesses:
M. R. MORGAN,
Brevet Brigadier General and Commissary Subsistence.
THOMAS RICHARDSON.

JANUARY 27, 1871.

A true copy.

B. DUBARRY,
Major and Commissary Subsistence.

CHICAGO, ILLINOIS, *September* 21, 1869.

DEAR SIR: I wish to substitute the following for my proposition for the 18th instant in relation to additional beef cattle.

I will furnish any additional number of beef cattle that may be required at Yankton, Whetstone Creek, Crow Creek, Big Cheyenne River, and Grand River Indian agencies, Dakota Territory, under same terms as contract of June 18 and supplementary contract of July 6, 1869, at $4 20 per 100 pounds gross weight, during the continuance of said contracts—that is, to June 30, 1870.

This price to be paid to me for all beef cattle delivered over and above the total number, 9,075, provided for by said contracts.

Very respectfully,

EDWARD FENLON.

General H. F. CLARKE, *Chicago, Illinois.*

OFFICE COMMISSARY GENERAL OF SUBSISTENCE, *January* 23, 1871.

A true copy.

B. DUBARRY,
Major and Commissary of Subsistence.

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
OFFICE CHIEF COMMISSARY OF SUBSISTENCE,
Chicago, Illinois, September 21, 1869.

SIR: Your proposition of this date to furnish any additional number of beef cattle that may be required at Yankton, Whetstone Creek, Big Cheyenne River, and Grand River Indian agencies, Dakota Territory, under the same terms as present contract and supplementary contract, at $4 20 per 100 pounds gross weight, during the continuance of said contract to June 30, 1870, and which you wish to substitute for your proposition of the 18th instant, is accepted.

The price just stated to be paid you for all beef cattle delivered as per your proposition of this date, over and above the total number (9,075) provided for by said contracts.

Very respectfully, your obedient servant,

H. F. CLARKE,
Bvt. Maj. Gen., Acting. Com. Gen. of Subsistence,
Chief Com. of Subsistence, Mil. Div. Missouri.

OFFICE COMMISSARY GENERAL OF SUBSISTENCE, *January* 23, 1871.

A true copy.

B. DUBARRY,
Major and Commissary of Subsistence.

Proposals for Indian goods.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs, July 29, 1870.

Sealed proposals, indorsed "Proposals for Indian goods," will be received by the undersigned at No. 339 Canal street, New York City, until 12 o'clock m. on Thursday, the 4th day of August next, for furnishing, in the quantities therein given, the articles named in the following list:

3,200 pairs 3 pt. white Mackinac blankets, to measure 60 by 72 inches, and weigh 8 pounds.
1,600 pairs 2½ pt. white Mackinac blankets, to measure 54 by 66 inches, and weigh 6 pounds.
2,700 pairs 3 pt. scarlet Mackinac blankets, to measure 60 by 72 inches, and weigh 8 pounds.
2,400 pairs 2½ pt. scarlet Mackinac blankets, to measure 54 by 66 inches, and weigh 6 pounds.
250 pairs 2 pt. scarlet Mackinac blankets, to measure 42 by 46 inches, and weigh 5¼ pounds.
2,700 pairs 3 pt. indigo blue Mackinac blankets, to measure 60 by 72 inches, and weigh 8 pounds.
1,550 pairs 2½ pt. indigo blue Mackinac blankets, to measure 54 by 66 inches, and weigh 6 pounds.
1,000 yards fancy list blue cloth.
10,000 yards saved list blue cloth.
7,000 yards saved list scarlet cloth.
175 dozen 3 by 4 plaid woolen shawls.
210,000 yards 64 square standard prints.
50,000 indigo blue drilling, (best quality.)
25,000 yards ⅞ good ticking.
10,000 yards indigo and gray mixed satinets.
6,000 yards hickory shirting.
180,000 yards standard brown sheeting, 4-4.
10,000 yards heavy cotton duck, (for tents.)
18,000 yards linsey.
25,000 yards heavy blue twilled flannel.
27,000 yards heavy red twilled flannel.
8,000 hickory shirts.
12,000 red flannel shirts.
1,350 dozen men's heavy wool socks.
575 dozen women's heavy wool hose.
500 dozen children's heavy wool hose.
800 dozen plaid cotton handkerchiefs, (large.)
8,500 pounds of yarn, assorted colors.
800 dozen standard make, six-cord spool cotton, 200 yards, white or black.
800 dozen standard make, three-cord, enameled spool cotton, 200 yards, white or black.
1,000 pounds linen thread, standard Nos. 25 and 30.
4,000 men's coats.
4,000 men's pants.
800 pairs men's shoes.
400 pairs women's shoes.
200 pairs children's shoes.
5,000 hats, either black or gray felt, black wool, or military.
220 dozen cast-steel axes, 3 to 3½ pounds.
170 dozen cast-steel half axes, 2 to 3 pounds.
1,500 tinned iron kettles, 4, 6, 8 quarts.
4,000 fry-pans, usual size for Indians.
400 dozen tin-pans, pressed, 2, 4 and 6 quarts.
500 dozen iron table spoons.
850 dozen tin cups, pints.
1,300 dozen butcher-knives, cast-steel, 6-inch blade, ebony handles.
150 dozen tin pails, 6 to 12 quarts, no covers.
90 dozen hoes.
300 dozen tin plates.
330 dozen ax handles.
170 dozen half-ax handles.
20,000 pounds tobacco.

Parties bidding are required to furnish a sample of each article bid for. The prices must be given without any modification or proposed modification whatever.

The right will be reserved to require none or a greater or less quantity of any of the articles than that specified in the above list, at the prices proposed.

All bids for furnishing said articles may be rejected at the option of the Government.

All articles furnished under contract will be rigidly inspected and compared with the samples, by an agent or agents appointed for that purpose. Such goods or articles as may in any respect fail to conform to the samples will be rejected, and in that case the contractor will be bound to furnish others of the required kind or quality within five days; or, if that is not done, they will be purchased at his expense.

Payments will be made for goods received on invoices thereof, certified by the agent or agents appointed to inspect them.

No bids will be considered from persons who have failed to comply with the requirements of a former contract.

No proposals will be considered that do not strictly comply with the following form:

"I (or we) hereby propose to furnish the Indian Department, according to the terms of the advertisement of the Commissioner of Indian Affairs, dated July 29, 1870, the following articles, at the prices thereto affixed. [Here insert the list of articles proposed to be furnished.] Said articles are to be delivered in New York on or before the 20th day of August next. And if this proposal be accepted, I (or we) will, within five days thereafter, execute a contract accordingly, and give security satisfactory to the Commissioner of Indian Affairs for the faithful performance of the same."

Each proposal must be accompanied by a guarantee in the following form, to be signed by two responsible persons, whose sufficiency must be certified by a United States judge or district attorney:

"We hereby, jointly and severally, guarantee that the above bidder, (or bidders,) if a contract shall be awarded to him, (or them,) according to his (or their) bid or proposal, will execute a contract accordingly, and give the requisite security for the faithful performance of the same, as prescribed in the advertisement for proposals for Indian goods, dated July 29, 1870; and in the event of his (or their) failure so to do, we hereby agree and bind ourselves, our heirs, executors, and administrators, to forfeit and pay to the United States, as damages, a sum not less than 15 per cent. on the amount of said bid or proposal."

Bonds will be required in the amount of the bid for the faithful performance of the contract, with two or more sureties, whose sufficiency must be certified to by a United States judge or district attorney.

E. S. PARKER,
Commissioner of Indian Affairs.

Schedule of prices to be paid Hiram K. Hazlett, contractor, for the transportation of officers, soldiers, military, Indian, and Government supplies, horses, mules, cattle, wagons, ambulances, and carts, under an agreement between Brevet Major General D. H. Rucker, Assistant Quartermaster General United States Army, acting on behalf of the United States, and the said Hiram K. Hazlett, dated at Chicago, Illinois, February 17, 1870.

Classes and places.	March, April, May, June, July, and August, 1870.													
	Sioux City.	Yankton agency.	Fort Randall.	Whetstone Creek agency.	Lower Brulé agency.	Crow Creek agency.	Fort Sully.	Big Cheyenne agency.	Grand River agency.	Fort Rice.	Fort Stevenson.	Fort Buford.	Post at mouth of Muscleshell.	Camp Cooke.	Fort Benton.
Officers:															
St. Louis	$16 00	$22 00	$24 00	$27 00	$30 00	$34 00	$38 00	$40 00	$42 00	$47 00	$57 00	$64 00	$72 00	$84 00	$92 00
Wyandott	16 00	22 00	24 00	27 00	30 00	34 00	38 00	40 00	42 00	47 00	57 00	64 00	72 00	84 00	92 00
Fort Leavenworth	11 00	17 00	19 00	22 00	25 00	29 00	33 00	35 00	37 00	42 00	52 00	59 00	67 00	77 00	87 00
Omaha	5 00	11 00	13 00	16 00	19 00	24 00	27 00	29 00	31 00	36 00	46 00	53 00	61 00	71 00	81 00
Sioux City	.....	5 00	10 00	13 00	16 00	21 00	24 00	26 00	28 00	33 00	43 00	50 00	58 00	68 00	78 00
Yankton agency	.....	.....	5 00	8 00	11 00	16 00	19 00	21 00	23 00	28 00	38 00	45 00	53 00	63 00	73 00
Fort Randall	.....	.....	.....	5 00	8 00	11 00	14 00	16 00	18 00	23 00	33 00	40 00	48 00	58 00	68 00
Whetstone Creek agency	.....	.....	.....	.....	5 00	8 00	10 00	12 00	14 00	18 00	25 00	35 00	43 00	53 00	63 00
Lower Brulé agency	.....	.....	.....	.....	.....	5 00	8 00	10 00	12 00	15 00	20 00	27 00	35 00	44 00	54 00
Crow Creek agency	.....	.....	.....	.....	.....	.....	5 00	8 00	10 00	12 00	16 00	23 00	28 00	36 00	47 00
Fort Sully	.....	.....	.....	.....	.....	.....	.....	5 00	8 00	10 00	13 00	20 00	25 00	30 00	41 00
Big Cheyenne agency	.....	.....	.....	.....	.....	.....	.....	.....	5 00	8 00	11 00	18 00	21 00	27 00	35 00
Grand River agency	.....	.....	.....	.....	.....	.....	.....	.....	.....	5 00	8 00	15 00	20 00	24 00	30 00
Fort Rice	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	5 00	12 00	15 00	21 00	28 00
Fort Stevenson	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	7 00	14 00	19 00	24 00
Fort Buford	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10 00	17 00	20 00
Post at mouth of Muscleshell	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10 00	17 00
Camp Cooke	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	12 00
Soldiers:															
St. Louis	6 00	7 00	8 00	8 50	8 50	9 50	10 00	11 00	12 00	13 00	15 00	19 00	23 00	26 00	29 00
Wyandott	6 00	7 00	8 00	8 50	8 50	9 50	10 00	11 00	12 00	13 00	15 00	19 00	23 00	26 00	29 00
Fort Leavenworth	3 00	4 00	5 00	7 00	7 50	9 00	9 50	10 00	11 00	12 00	14 00	17 00	20 00	23 00	25 00
Omaha	3 00	4 00	5 00	7 00	7 50	9 00	9 50	10 00	10 00	12 00	14 00	17 00	20 00	23 00	25 00
Sioux City	.....	3 00	4 00	5 00	6 00	7 00	8 00	9 00	10 00	11 00	13 00	16 00	18 00	20 00	22 00
Yankton agency	.....	.....	3 00	4 00	5 00	6 00	7 00	8 00	9 00	10 00	11 00	14 00	16 00	18 00	20 00
Fort Randall	.....	.....	.....	3 00	4 00	5 00	6 00	7 00	8 00	9 00	10 00	11 00	14 00	15 00	18 00
Whetstone Creek agency	.....	.....	.....	.....	3 00	4 00	5 00	6 00	7 00	8 00	9 00	10 00	12 00	13 00	16 00

Lower Brulé agency						3 00	4 00	5 00	6 00	7 00	8 00	9 00	11 00	12 00	14 00
Crow Creek agency							3 00	4 00	5 00	6 00	7 00	8 00	10 00	11 00	12 00
Fort Sully								3 00	4 00	5 00	6 00	7 00	9 00	9 00	10 00
Big Cheyenne agency									3 00	4 00	5 00	6 00	8 00	8 00	9 00
Grand River agency										3 00	4 00	5 00	7 00	7 00	8 00
Fort Rice											3 00	4 00	6 00	6 00	7 00
Fort Stevenson												3 00	5 00	5 00	6 00
Fort Buford													3 00	4 00	5 00
Post at mouth of Muscleshell														3 00	4 00
Camp Cooke															3 00
Pound freight, (per 100 pounds):															
St. Louis	50	1 25	1 25	1 50	1 75	1 75	1 75	2 25	2 25	2 25	2 50	2 75	4 50	5 00	5 50
Wyandott	50	1 25	1 25	1 50	1 75	1 75	1 75	2 25	2 25	2 25	2 50	2 75	4 50	5 00	5 50
Fort Leavenworth	30	1 00	1 00	1 00	1 20	1 20	1 30	2 00	2 00	1 75	2 00	2 50	4 00	5 00	5 00
Omaha	30	1 00	1 00	1 00	1 50	1 25	1 30	2 00	2 00	1 75	2 00	2 50	4 00	5 00	5 50
Sioux City		75	75	1 00	1 10	1 25	1 30	1 60	1 60	1 60	2 00	2 25	4 00	4 50	4 50
Yankton agency			75	95	1 05	1 20	1 25	1 35	1 35	1 50	1 75	2 20	4 00	4 50	4 50
Fort Randall				95	1 05	1 20	1 25	1 30	1 30	1 40	1 65	2 15	4 00	4 50	4 50
Whetstone Creek agency					1 00	1 10	1 20	1 25	1 25	1 30	1 60	2 10	4 00	4 50	4 50
Lower Brulé agency						1 00	1 15	1 20	1 20	1 30	1 60	2 10	4 00	4 50	4 50
Crow Creek agency							1 15	1 15	1 20	1 30	1 50	2 00	4 00	4 50	4 50
Fort Sully								1 15	1 15	1 25	1 40	1 90	4 00	4 50	4 30
Big Cheyenne agency									1 10	1 25	1 40	1 90	3 50	4 00	4 20
Grand River agency										1 15	1 40	1 90	3 50	4 00	4 00
Fort Rice											1 30	1 60	3 50	3 50	3 80
Fort Stevenson												1 50	3 50	3 50	3 60
Fort Buford													3 00	3 00	3 60
Post at mouth of Muscleshell														2 75	3 00
Camp Cooke															2 50
Horses and cattle:															
St. Louis	15 00	19 00	23 00	29 00	33 00	38 00	40 00	43 00	46 00	48 00	58 00	64 00	72 00	85 00	92 00
Wyandott	15 00	19 00	23 00	29 00	33 00	38 00	40 00	43 00	46 00	48 00	58 00	63 00	70 00	85 00	92 00
Fort Leavenworth	15 00	19 00	23 00	29 00	33 00	38 00	40 00	43 00	46 00	48 00	58 00	62 00	70 00	84 00	91 00
Omaha	10 00	12 00	23 00	29 00	33 00	38 00	40 00	43 00	46 00	48 00	58 00	61 00	69 00	82 00	90 00
Sioux City		8 00	14 00	20 00	25 00	29 00	31 00	34 00	37 00	39 00	49 00	55 00	65 00	75 00	87 00
Yankton agency			9 00	15 00	20 00	24 00	26 00	29 00	32 00	34 00	44 00	50 00	58 00	72 00	79 00
Fort Randall				10 00	15 00	19 00	21 00	24 00	27 00	29 00	39 00	45 00	53 00	66 00	74 00
Whetstone Creek agency					10 00	14 00	16 00	19 00	22 00	24 00	34 00	40 00	48 00	62 00	69 00
Lower Brulé agency						10 00	13 00	16 00	19 00	22 00	25 00	31 00	41 00	57 00	61 00
Crow Creek agency							10 00	13 00	16 00	19 00	22 00	27 00	38 00	47 00	57 00
Fort Sully								10 00	13 00	16 00	19 00	24 00	27 00	37 00	47 00
Big Cheyenne agency									10 00	13 00	17 00	20 00	22 00	32 00	42 00
Grand River agency										10 00	13 00	18 00	21 00	24 00	30 00
Fort Rice											10 00	12 00	17 00	19 00	25 00
Fort Stevenson												10 00	14 00	16 00	21 00
Fort Buford													10 00	13 00	16 00
Post at mouth of Muscleshell														10 00	14 00
Camp Cooke															10 00

Schedule of prices to be paid Hiram K. Hazlett, contractor, for the transportation of officers, &c.—Continued.

Classes and places.	March, April, May, June, July, and August, 1870.														
	Sioux City.	Yankton agency.	Fort Randall.	Whetstone Creek agency.	Lower Brulé agency.	Crow Creek agency.	Fort Sully.	Big Cheyenne agency.	Grand River agency.	Fort Rice.	Fort Stevenson.	Fort Buford.	Post at mouth of Muscleshell.	Camp Cooke.	Fort Benton.
Mules:															
Saint Louis	$15 00	$19 00	$23 00	$29 00	$33 00	$38 00	$40 00	$43 00	$46 00	$48 00	$58 00	$64 00	$72 00	$85 00	$92 00
Wyandott	15 00	19 00	23 00	29 00	33 00	38 00	40 00	43 00	46 00	48 00	58 00	63 00	70 00	85 00	92 00
Fort Leavenworth	15 00	19 00	23 00	29 00	33 00	38 00	40 00	43 00	46 00	48 00	58 00	63 00	70 00	85 00	92 00
Omaha	15 00	19 00	23 00	29 00	33 00	38 00	40 00	43 00	46 00	48 00	58 00	61 00	69 00	82 00	90 00
Sioux City	.....	8 00	14 00	20 00	25 00	29 00	31 00	34 00	37 00	39 00	49 00	55 00	65 00	75 00	87 00
Yankton agency	.....	.....	9 00	15 00	20 00	24 00	26 00	29 00	32 00	34 00	44 00	50 00	58 00	72 00	79 00
Fort Randall	.....	.....	.....	10 00	12 00	19 00	21 00	24 00	27 00	29 00	39 00	45 00	53 00	66 00	74 00
Whetstone Creek agency	.....	.....	.....	.....	10 00	14 00	16 00	19 00	22 00	24 00	34 00	40 00	48 00	62 00	69 00
Lower Brulé agency	.....	.....	.....	.....	.....	10 00	13 00	16 00	19 00	22 00	25 00	31 00	41 00	57 00	61 00
Crow Creek agency	.....	.....	.....	.....	.....	.....	10 00	13 00	16 00	19 00	22 00	27 00	38 00	47 00	57 00
Fort Sully	.....	.....	.....	.....	.....	.....	.....	10 00	13 00	16 00	19 00	24 00	27 00	37 00	47 00
Big Cheyenne agency	.....	.....	.....	.....	.....	.....	.....	.....	10 00	13 00	17 00	20 00	22 00	32 00	42 00
Grand River agency	.....	.....	.....	.....	.....	.....	.....	.....	.....	10 00	13 00	18 00	18 00	24 00	30 00
Fort Rice	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10 00	12 00	17 00	19 00	25 00
Fort Stevenson	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10 00	14 00	16 00	21 00
Fort Buford	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10 00	13 00	16 00
Post at mouth of Muscleshell	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10 00	14 00
Camp Cooke	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10 00
Wagons:															
Saint Louis	26 00	29 00	32 00	38 00	41 00	44 00	48 00	55 00	62 00	68 00	77 00	84 00	116 00	148 00	150 00
Wyandott	26 00	29 00	32 00	38 00	41 00	44 00	48 00	55 00	62 00	68 00	77 00	84 00	116 00	148 00	150 00
Fort Leavenworth	21 00	29 00	32 00	38 00	41 00	44 00	48 00	55 00	62 00	68 00	77 00	84 00	116 00	148 00	150 00
Omaha	16 00	24 00	27 00	33 00	35 00	40 00	44 00	50 00	62 00	63 00	70 00	78 00	111 00	141 00	146 00
Sioux City	.....	14 00	17 00	23 00	28 00	30 00	34 00	40 00	48 00	53 00	60 00	68 00	101 00	131 00	136 00
Yankton agency	.....	.....	12 00	18 00	23 00	27 00	30 00	35 00	40 00	46 00	53 00	61 00	94 00	124 00	129 00
Fort Randall	.....	.....	.....	16 00	18 00	21 00	27 00	30 00	33 00	39 00	46 00	53 00	68 00	88 00	104 00
Whetstone Creek agency	.....	.....	.....	.....	12 00	15 00	21 00	24 00	27 00	33 00	40 00	47 00	62 00	82 00	98 00
Lower Brulé agency	.....	.....	.....	.....	.....	12 00	18 00	23 00	24 00	30 00	37 00	44 00	52 00	72 00	88 00
Crow Creek agency	.....	.....	.....	.....	.....	.....	12 00	16 00	18 00	24 00	31 00	38 00	46 00	66 00	82 00
Fort Sully	.....	.....	.....	.....	.....	.....	.....	12 00	15 00	19 00	25 00	31 00	40 00	60 00	72 00

Big Cheyenne agency									12 00	15 00	21 00	25 00	31 00	51 00	63 00
Grand River agency										12 00	15 00	21 00	25 00	31 00	51 00
Fort Rice											12 00	15 00	21 00	25 00	31 00
Fort Stevenson												12 00	25 00	25 00	31 00
Fort Buford													18 00	21 00	25 00
Post at mouth of Muscleshell														18 00	21 00
Camp Cooke															18 00
Ambulances:															
Saint Louis	26 00	29 00	32 00	38 00	41 00	44 00	48 00	55 00	62 00	68 00	77 00	84 00	116 00	148 00	150 00
Wyandott	26 00	29 00	32 00	38 00	41 00	44 00	48 00	55 00	62 00	68 00	77 00	84 00	116 00	148 00	150 00
Fort Leavenworth	21 00	29 00	32 00	38 00	41 00	44 00	48 00	55 00	62 00	68 00	77 00	84 00	116 00	148 00	150 00
Omaha	16 00	24 00	27 00	33 00	35 00	40 00	44 00	50 00	62 00	63 00	70 00	78 00	111 00	141 00	146 00
Sioux City		14 00	17 00	23 00	28 00	30 00	34 00	40 00	48 00	53 00	60 00	68 00	101 00	131 00	136 00
Yankton agency			12 00	18 00	23 00	27 00	30 00	34 00	40 00	46 00	53 00	61 00	94 00	124 00	129 00
Fort Randall				16 00	18 00	21 00	27 00	30 00	33 00	39 00	46 00	53 00	68 00	88 00	104 00
Whetstone Creek agency					12 00	15 00	21 00	24 00	27 00	33 00	40 00	47 00	62 00	82 00	98 00
Lower Brulé agency						12 00	15 00	23 00	24 00	30 00	37 00	44 00	52 00	72 00	88 00
Crow Creek agency							12 00	15 00	18 00	24 00	31 00	38 00	46 00	66 00	82 00
Fort Sully								12 00	15 00	19 00	25 00	31 00	40 00	60 00	72 00
Big Cheyenne agency									12 00	15 00	21 00	25 00	31 00	51 00	63 00
Grand River agency										12 00	15 00	21 00	25 00	31 00	51 00
Fort Rice											12 00	15 00	21 00	25 00	31 00
Fort Stevenson												12 00	25 00	28 00	30 00
Fort Buford													18 00	21 00	25 00
Post at mouth of Muscleshell														18 00	21 00
Camp Cooke															18 00
Carts:															
Saint Louis	13 00	16 00	17 00	19 00	21 00	22 00	24 00	27 00	31 00	34 00	38 00	42 00	58 00	74 00	76 00
Wyandott	13 00	16 00	17 00	19 00	21 00	22 00	24 00	27 00	31 00	34 00	38 00	42 00	58 00	74 00	76 00
Fort Leavenworth	12 00	15 00	16 00	18 00	20 00	21 00	23 00	26 00	30 00	34 00	37 00	41 00	57 00	73 00	75 00
Omaha	12 00	15 00	16 00	18 00	20 00	21 00	23 00	26 00	30 00	34 00	37 00	41 00	57 00	73 00	75 00
Sioux City		8 00	9 00	11 00	14 00	15 00	17 00	20 00	24 00	27 00	30 00	34 00	50 00	60 00	65 00
Yankton agency			6 00	9 00	12 00	13 00	15 00	18 00	22 00	25 00	28 00	32 00	48 00	58 00	63 00
Fort Randall				7 00	10 00	11 90	13 00	16 00	20 00	23 00	26 00	30 00	46 00	56 00	61 00
Whetstone Creek agency					7 00	8 00	10 00	13 00	17 00	20 00	23 00	27 00	43 00	53 00	58 00
Lower Brulé agency						7 00	9 00	12 00	16 00	19 00	22 00	27 00	43 00	53 00	58 00
Crow Creek agency							7 00	10 00	14 00	17 00	20 00	25 00	41 00	51 90	56 00
Fort Sully								7 00	11 00	14 00	17 00	21 00	34 00	44 00	49 00
Big Cheyenne agency									7 00	10 00	13 00	17 00	30 00	40 00	44 00
Grand River agency										7 00	10 00	14 00	24 00	30 00	36 00
Fort Rice											7 00	11 00	19 00	25 00	31 00
Fort Stevenson												7 00	15 00	20 00	25 00
Fort Buford													10 00	15 00	20 00
Post at mouth of Muscleshell														10 00	15 00
Camp Cooke															10 00

Schedule of prices to be paid Hiram K. Hazlett, contractor, for the transportation of officers, &c.—Continued.

Classes and places.	September, 1870.														
	Sioux City.	Yankton agency.	Fort Randall.	Whetstone Creek agency.	Lower Brulé agency.	Crow Creek agency.	Fort Sully.	Big Cheyenne agency.	Grand River agency.	Fort Rice.	Fort Stevenson.	Fort Buford.	Post at mouth of Muscleshell.	Camp Cooke.	Fort Benton.
Officers:															
St. Louis	$32 00	$44 00	$48 00	$54 00	$60 00	$76 00	$76 00	$80 00	$84 00	$94 00	$114 00	$128 00	$144 00	$168 00	$184 00
Wyandott	32 00	44 00	48 00	54 00	60 00	76 00	76 00	80 00	84 00	94 00	114 00	128 00	144 00	168 00	184 00
Fort Leavenworth	22 00	34 00	38 00	44 00	50 00	58 00	66 00	70 00	74 00	84 00	104 00	118 00	134 00	154 00	174 00
Omaha	10 00	22 00	26 00	32 00	38 00	48 00	54 00	58 00	62 06	72 00	92 00	106 00	122 00	142 00	162 00
Sioux City	.....	10 00	20 00	26 00	32 00	42 00	48 00	52 00	56 00	66 00	86 00	100 00	116 00	136 00	156 00
Yankton agency	.....	.....	10 00	16 00	22 00	32 00	38 00	41 00	46 00	56 00	76 00	90 00	106 00	126 00	146 00
Fort Randall	.....	.....	.....	10 00	16 00	22 00	28 00	32 00	36 00	46 00	66 00	80 00	96 00	116 00	136 00
Whetstone Creek agency	.....	.....	.....	.....	10 00	16 00	20 00	24 00	28 00	36 00	50 00	70 00	86 00	106 00	126 00
Lower Brulé agency	.....	.....	.....	.....	.....	10 00	16 00	20 00	24 00	30 00	40 00	54 00	70 00	88 00	108 00
Crow Creek agency	.....	.....	.....	.....	.....	.....	10 00	16 00	20 00	24 00	32 00	46 00	56 00	72 00	94 00
Fort Sully	.....	.....	.....	.....	.....	.....	.....	10 00	16 00	20 00	26 00	40 00	50 00	60 00	82 00
Big Cheyenne agency	.....	.....	.....	.....	.....	.....	.....	.....	10 00	16 00	22 00	36 00	36 00	54 00	70 00
Grand River agency	.....	.....	.....	.....	.....	.....	.....	.....	.....	10 00	16 00	30 00	32 00	48 00	60 00
Fort Rice	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10 00	24 00	30 00	42 00	56 00
Fort Stevenson	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	14 00	28 00	38 00	48 00
Fort Buford	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	20 00	34 00	46 00
Post at mouth of Muscleshell	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	20 00	34 00
Camp Cooke	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	24 00
Soldiers:															
St. Louis	12 00	14 00	16 00	17 00	17 00	19 00	20 00	22 00	24 00	26 00	30 00	38 00	46 00	52 00	58 00
Wyandott	12 00	14 00	16 00	17 00	17 00	19 00	20 00	22 00	24 00	26 00	30 00	38 00	46 00	52 00	58 00
Fort Leavenworth	12 00	14 00	16 00	17 00	17 00	19 00	20 00	22 00	24 00	26 00	30 00	38 00	46 00	52 00	58 00
Omaha	6 00	8 00	10 00	14 00	15 00	18 00	19 00	20 00	22 00	24 00	28 00	34 00	40 00	46 00	50 00
Sioux City	.....	6 00	8 00	10 00	12 00	14 00	16 00	18 00	20 00	22 00	26 00	32 00	36 00	40 00	44 00
Yankton agency	.....	.....	6 00	8 00	10 00	12 00	14 00	16 00	18 00	20 00	22 00	28 00	32 00	36 00	40 00
Fort Randall	.....	.....	.....	6 00	8 00	10 00	12 00	14 00	16 00	18 00	20 00	22 00	28 00	30 00	36 00
Whetstone Creek agency	.....	.....	.....	.....	6 00	8 00	10 00	12 00	14 00	16 00	18 00	20 00	24 00	26 00	32 00
Lower Brulé agency	.....	.....	.....	.....	.....	6 00	8 00	10 00	12 00	14 00	16 00	18 00	22 00	24 00	28 00
Crow Creek agency	.....	.....	.....	.....	.....	.....	6 00	8 00	10 00	12 00	14 00	16 00	20 00	22 00	24 00
Fort Sully	.....	.....	.....	.....	.....	.....	.....	6 00	8 00	10 00	12 00	14 00	18 00	18 00	20 00
Big Cheyenne agency	.....	.....	.....	.....	.....	.....	.....	.....	6 00	8 00	10 00	12 00	16 00	16 00	18 00

Grand River agency										6 00	8 00	10 00	14 00	14 00	16 00
Fort Rice											6 00	8 00	12 00	12 00	14 00
Fort Stevenson												6 00	10 00	10 00	12 00
Fort Buford													6 00	8 00	10 00
Post at mouth of Muscleshell														6 00	8 00
Camp Cooke															6 00
Pound freight, (per 100 pounds:)															
St. Louis	1 00	2 50	2 50	3 00	3 50	3 50	3 50	4 50	4 50	4 50	5 00	5 50	9 00	10 00	11 00
Wyandott	1 00	2 50	2 50	3 00	3 50	3 50	3 50	4 50	4 50	4 50	5 00	5 50	9 00	10 00	11 00
Fort Leavenworth	60	2 00	2 00	2 00	2 40	2 40	2 60	4 00	4 00	3 50	4 00	5 00	8 00	10 00	10 00
Omaha	60	2 00	2 00	2 00	2 00	2 50	2 60	4 00	4 00	3 50	4 00	5 00	8 00	10 00	11 00
Sioux City		1 50	1 50	1 60	2 20	2 50	2 60	3 20	3 20	3 20	4 00	4 50	8 00	9 00	9 00
Yankton agency			1 50	1 90	2 10	2 40	2 50	2 70	2 70	3 00	3 50	4 40	8 00	9 00	9 00
Fort Randall				1 90	2 10	2 40	2 50	2 60	2 60	2 40	3 30	4 30	8 00	9 00	9 00
Whetstone Creek agency					2 10	2 20	2 40	2 50	2 50	2 60	3 20	4 20	8 00	9 00	9 00
Lower Brulé agency						2 20	2 30	2 40	2 40	2 60	3 20	4 20	8 00	9 00	9 00
Crow Creek agency							2 20	2 30	2 30	2 50	3 00	4 00	8 00	9 00	9 00
Fort Sully								2 30	2 20	2 50	2 80	3 80	8 00	9 00	8 60
Big Cheyenne agency									2 20	2 50	2 80	3 80	7 00	8 00	8 40
Grand River agency										2 30	2 80	2 80	7 00	8 00	8 00
Fort Rice											2 60	3 20	7 00	7 00	7 60
Fort Stevenson												3 00	7 00	7 00	7 20
Fort Buford													6 00	6 00	7 20
Post at mouth of Muscleshell														5 50	6 00
Camp Cooke															5 00
Horses, mules, and cattle:															
St. Louis	30 00	38 00	46 00	58 00	66 00	76 00	80 00	86 00	92 00	96 00	128 00	128 00	144 00	170 00	184 00
Wyandott	30 00	38 00	46 00	58 00	66 00	76 00	80 00	86 00	92 00	96 00	116 00	126 00	140 00	170 00	184 00
Fort Leavenworth	30 00	38 00	46 00	58 00	66 00	76 00	80 00	86 00	92 00	96 00	124 00	124 00	140 00	168 00	182 00
Omaha	20 00	24 00	46 00	58 00	66 00	76 00	80 00	86 00	92 00	96 00	122 00	122 00	138 00	164 00	180 00
Sioux City		16 00	28 00	40 00	56 00	58 00	62 00	68 00	74 00	78 00	110 00	110 00	130 00	150 00	174 00
Yankton agency			18 00	30 00	28 00	48 00	52 00	58 00	64 00	68 00	100 00	100 00	116 00	144 00	158 00
Fort Randall				20 00	24 00	38 00	42 00	48 00	54 00	58 00	90 00	90 00	106 00	132 00	148 00
Whetstone Creek agency					20 00	28 00	32 00	38 00	44 00	48 00	80 00	80 00	96 00	124 00	138 00
Lower Brulé agency						20 00	26 00	32 00	38 00	44 00	62 00	62 00	82 00	114 00	122 00
Crow Creek agency							20 00	26 00	32 00	38 00	54 00	54 00	76 00	94 00	114 00
Fort Sully								20 00	26 00	32 00	48 00	48 00	54 00	74 00	94 00
Big Cheyenne agency									20 00	26 00	40 00	40 00	44 90	64 00	84 00
Grand River agency										20 00	36 00	36 90	36 00	48 00	60 00
Fort Rice											24 00	24 00	34 00	38 00	50 00
Fort Stevenson												20 00	28 00	32 00	41 00
Fort Buford													20 00	26 00	36 00
Post at mouth of Muscleshell														20 00	28 00
Camp Cooke															20 00
Wagons and ambulances:															
St. Louis	52 00	58 00	64 00	76 00	82 00	88 00	96 00	110 00	124 00	136 00	154 00	168 00	232 00	296 00	300 00
Wyandott	52 00	58 00	64 00	76 00	82 00	88 00	96 00	110 00	124 00	136 00	154 00	168 00	232 00	296 00	300 00
Fort Leavenworth	42 00	58 00	64 00	76 00	82 00	88 00	96 00	110 00	124 00	136 00	154 00	168 00	232 00	296 00	300 00
Omaha	32 00	48 00	54 00	46 00	76 00	80 00	88 00	100 00	124 00	126 00	140 00	156 00	222 00	282 00	292 00
Sioux City		28 00	34 00	46 00	56 00	60 00	68 00	80 00	96 00	106 00	120 00	136 00	202 00	262 00	282 00
Yankton agency			24 00	36 00	46 00	54 00	60 00	70 00	80 00	92 00	106 00	122 00	188 00	248 00	258 00
Fort Randall				32 00	36 00	42 00	54 00	60 00	66 00	78 00	92 00	106 00	136 00	176 00	208 00

Schedule of prices to be paid Hiram K. Hazlett, contractor, for the transportation of officers, &c.—Continued.

Classes and places.	September, 1870.														
	Sioux City.	Yankton agency.	Fort Randall.	Whetstone Creek agency.	Lower Brulé agency.	Crow Creek agency.	Fort Sully.	Big Cheyenne agency.	Grand River agency.	Fort Rice.	Fort Stevenson.	Fort Buford.	Post at mouth of Muscleshell.	Camp Cooke.	Fort Benton.
Whetstone Creek agency	.....	.....	.....	.....	$24 00	$30 00	$42 00	$48 00	$54 00	$66 00	$80 00	$94 00	$124 00	$164 00	$196 00
Lower Brulé agency	.....	.....	.....	.....	.....	24 00	36 00	42 00	48 00	60 00	74 00	88 00	104 00	144 00	176 00
Crow Creek agency	.....	.....	.....	.....	.....	.....	24 00	30 00	36 00	48 00	62 00	76 00	92 00	132 00	164 00
Fort Sully	.....	.....	.....	.....	.....	.....	.....	24 00	30 00	38 00	50 00	62 00	80 00	120 00	144 00
Big Cheyenne agency	.....	.....	.....	.....	.....	.....	.....	.....	24 00	30 00	42 00	50 00	62 00	102 00	126 00
Grand River agency	.....	.....	.....	.....	.....	.....	.....	.....	.....	24 00	30 00	42 00	50 00	62 00	102 00
Fort Rice	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	24 00	30 00	42 00	50 00	62 00
Fort Stevenson	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	24 00	42 00	50 00	62 00
Fort Buford	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	36 00	42 00	50 00
Post at mouth of Muscleshell	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	36 00	42 00
Camp Cooke	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	36 00
Carts:															
St. Louis	$26 00	$29 00	$32 00	$38 00	41 00	44 00	48 00	55 00	62 00	68 00	77 00	84 00	116 00	148 00	150 00
Wyandott	26 00	29 00	32 00	38 00	41 00	44 00	48 00	55 00	62 00	68 00	77 00	78 00	116 00	148 00	150 00
Fort Leavenworth	21 00	29 00	32 00	38 00	41 00	44 00	48 00	55 00	62 00	68 00	77 00	68 00	116 00	148 00	150 00
Omaha	16 00	24 00	27 00	33 00	38 00	40 00	44 00	50 00	62 00	63 00	70 00	61 00	111 00	141 00	146 00
Sioux City	.....	14 00	17 00	23 00	28 00	30 00	34 00	40 00	48 00	53 00	60 00	53 00	101 00	131 00	136 00
Yankton agency	.....	.....	12 00	18 00	25 00	27 00	30 00	30 00	40 00	46 00	53 00	47 00	94 00	124 00	129 00
Fort Randall	.....	.....	.....	16 00	23 00	21 00	27 00	30 00	33 00	39 00	46 00	44 00	68 00	88 00	104 00
Whetstone Creek agency	.....	.....	.....	.....	18 00	15 00	21 00	24 00	27 00	33 00	40 00	38 00	62 00	82 00	98 00
Lower Brulé agency	.....	.....	.....	.....	.....	12 00	18 00	21 00	24 00	30 00	37 00	31 00	52 00	72 00	88 00
Crow Creek agency	.....	.....	.....	.....	.....	.....	12 00	15 00	18 00	24 00	31 00	25 00	46 00	66 00	82 00
Fort Sully	.....	.....	.....	.....	.....	.....	.....	12 00	15 00	19 00	25 00	25 00	40 00	60 00	72 00
Big Cheyenne agency	.....	.....	.....	.....	.....	.....	.....	.....	12 00	15 00	21 00	21 00	31 00	51 00	63 00
Grand River agency	.....	.....	.....	.....	.....	.....	.....	.....	.....	12 00	15 00	21 00	25 00	31 00	51 00
Fort Rice	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	12 00	15 00	21 00	25 00	31 00
Fort Stevenson	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	12 00	21 00	25 00	31 00
Fort Buford	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	18 00	21 00	25 00
Post at mouth of Muscleshell	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	18 00	21 00
Camp Cooke	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	18 00

The rates for October, 1870, are two hundred per cent. advance of the rates for March, April, May, June, July, and August, 1870.

Witnesses: GEORGE FRANCIS NELSON.
E. M. WHITE.

D. H. RUCKER, *Bvt. Maj. Gen., and Asst. Q. M. Gen., U. S. Army.*
HIRAM K. HAZLETT.

Schedule of prices to be paid George K. Hazlett, contractor, for the transportation of officers, soldiers, military, Indian, and Government supplies, horses, mules, cattle, wagons, ambulances, and carts, from Chicago, Illinois, on through bills of lading, to points on the Missouri River, above Sioux City, Iowa, by rail to Sioux City, thence by steamer, under an agreement between Bvt. Maj. Gen'l D. H. Rucker, Asst. Q. M. Gen'l U. S. Army, acting on behalf of the United States, and the said George K. Hazlett, dated at Chicago, Illinois, the sixteenth day of February, 1870.

Classes.	March, April, May, June, July, and August, 1870.													
	Yankton agency.	Fort Randall.	Whetstone Creek agency.	Lower Brulés agency.	Crow Creek agency.	Fort Sully.	Big Cheyenne agency.	Grand River agency.	Fort Rice.	Fort Stevenson.	Fort Buford.	Post at mouth of Muscleshell.	Camp Cook.	Fort Benton.
From Chicago, Illinois:														
Officers	$18 00	$20 00	$25 00	$27 50	$34 00	$38 00	$42 00	$47 00	$50 00	$55 00	$65 00	$80 00	$85 00	$95 00
Soldiers	15 00	15 50	16 00	18 00	20 00	21 00	22 00	23 00	24 00	26 00	28 00	38 00	40 00	40 00
Pound freight, (per 100 lbs)	1 30	1 35	1 45	1 65	1 85	2 00	2 10	2 30	2 40	2 50	3 00	4 75	4 75	5 25
Horses and cattle	17 00	20 00	27 00	30 00	36 00	38 00	44 00	44 00	50 00	55 00	60 00	75 00	75 00	90 00
Mules	16 00	20 00	26 00	30 00	35 00	38 00	37 50	44 00	47 00	54 00	62 00	74 00	75 00	90 00
Wagons	25 00	27 00	30 00	40 00	42 00	43 00	47 00	57 00	62 00	70 00	78 00	88 00	100 00	120 00
Ambulances	25 00	27 00	30 00	37 00	40 00	45 00	48 00	57 00	63 00	70 00	78 00	90 00	95 00	120 00
Carts	15 00	16 00	18 00	20 00	24 00	25 00	27 00	30 00	35 00	36 00	40 00	45 00	55 00	65 00
	September and October, 1870.													
From Chicago, Illinois:														
Officers	36 00	40 00	50 00	55 00	68 00	76 00	84 00	94 00	100 00	110 00	130 00	160 00	170 00	190 00
Soldiers	30 00	31 00	32 00	36 00	40 00	42 00	44 00	46 00	48 00	52 00	56 00	76 00	80 00	80 00
Pound freight, (per 100 lbs)	2 60	2 70	2 90	3 30	3 70	4 00	4 20	4 60	4 80	5 00	6 00	9 50	9 50	10 50
Horses and cattle	34 00	40 00	54 00	60 00	72 00	76 00	80 00	88 00	100 00	110 00	120 00	150 00	150 00	180 00
Mules	32 00	40 00	52 00	60 00	70 00	76 00	75 00	88 00	94 00	108 00	124 00	148 00	150 00	180 00
Wagons	50 00	54 00	60 00	80 00	84 00	86 00	94 00	114 00	124 00	140 00	156 00	176 00	200 00	240 00
Ambulances	50 00	54 00	60 00	74 00	80 00	90 00	96 00	114 00	126 00	140 00	156 00	180 00	190 00	240 50
Carts	30 00	32 00	36 00	40 00	48 00	50 00	54 00	60 00	70 00	72 00	80 00	90 00	110 00	130 00

Witnesses:
GEO. FRANCIS NELSON.
WILLIAM H. MOWRY.

D. H. RUCKER,
Bvt. Maj. Gen'l, Asst. Q. M. Gen'l U. S. Army.
GEO. K. HAZLETT

Contract for the transportation of Government troops and supplies from Chicago, Illinois, to posts on the Upper Missouri River, commencing March 20 and ending October 31, 1870, inclusive.

This agreement, made and entered into this 16th day of February, 1870, by and between Brevet Major General D. H. Rucker, Assistant Quartermaster General United States Army, for and on behalf of the United States, of the first part, and George K. Hazlett, of Cincinnati, Ohio, of the second part, his heirs, executors and administrators, witnesseth: That the said parties have covenanted and agreed, and by these presents do covenant and agree to and with each other, viz:

ARTICLE I. That the said George K. Hazlett shall furnish, at any time from March 20 to October 31, 1870, all the transportation required by the United States Government for officers and soldiers from Chicago, Illinois, via and so far as Sioux City, Iowa, by rail, thence by river to the posts or Indian agencies (above that place on the Missouri River) mentioned in the tabular statement hereto annexed, and shall receive at any time from March 20, 1870, to October 31, 1870, inclusive, from the officer or agent of the Quartermaster's Department at Chicago, Illinois, all such military, Indian or Government stores, supplies, wagons and stock, as may be offered or turned over to him for transportation, in good order and condition, by said officer or agent of the Quartermaster's Department, and transport the same with dispatch by railroad to Sioux City, Iowa, and thence by river, and deliver them in like good order and condition to the officer or agent of the Quartermaster's Department designated to receive them, at Yankton agency, Fort Randall, Whetstone, Lower Brulés and Crow Creek agencies, Fort Sully, Big Cheyenne and Grand River agencies, Forts Rice, Stevenson, Buford, Dakota Territory; Camp Cooke and Fort Benton, Montana Territory, on the Missouri River; all stores, supplies, wagons and stock, to be delivered at their destination within the year 1870. It being expressly understood that the contractor shall furnish the required transportation from Chicago, Illinois, to any post, station or Indian agency that may be established on the Missouri River between Sioux City, Iowa, and Fort Benton, Montana Territory, at the same rate per mile as from Chicago, Illinois, to the post, station or Indian agency named in this agreement, nearest the point of delivery; the distances in all cases to be determined by the chief quartermaster Military Division of the Missouri; and for the faithful performance of such service he shall be paid in the manner hereinafter provided in article 8 of this agreement, and at the rates specified and shown in the tabular statement and remarks or memoranda hereto annexed, as signed by the parties to this agreement, which statement and remarks or memoranda are considered a part hereof.

ARTICLE II. That the said George K. Hazlett agrees and binds himself, his heirs, executors, and administrators to transport under this agreement, from Chicago, Illinois, to any of the posts, stations or Indian agencies above Sioux City, Iowa, named or referred to in article 1 of this agreement, any number of pounds of stores and supplies from and between 100,000 pounds and 20,000,000 pounds in the aggregate, and in no case to carry private freight or stock to the exclusion of that belonging to the government.

ARTICLE III. That the said George K. Hazlett agrees and binds himself, his heirs, executors, and administrators, to transport military, Indian, and Government stores, supplies and wagons, by land, from Sioux City, Iowa, to posts or Indian agencies, above mentioned or referred to in annexed tabular statement, or in article 1 of this agreement, in the event of failure by river, without any additional charge to the United States Government, but at the rates specified in the annexed tabular statement, and remarks or memoranda above referred to, or indicated in article 1 of this agreement; a sufficient guard to be furnished by the Government when required to protect stores, supplies or wagons, while in transitu overland, by application of contractor or his agent to the commanding officer of the nearest military post.

ARTICLE IV. That the said George K. Hazlett agrees and binds himself to furnish such steamboats only as shall conform to the requirements of the St. Louis (Mo.) board of underwriters, and as shall be safe and satisfactory to the quartermaster in charge of transportation at Sioux City, Iowa; shall provide officers with cabin passage from Sioux City, upward, allowing one hundred pounds of baggage to each, free of charge, and that the steamboats shall be furnished with kitchen-room and cooking-stoves, and all proper accommodations for the use of such troops as may be transported, 80 pounds of baggage to be allowed each soldier, free of charge; also, that the said steamboats shall be provided with troughs and proper conveniences for transporting and feeding horses, mules and cattle, 180 pounds being allowed for each, free of charge; it being expressly understood that no boat loaded with Government property will be allowed to go above Sioux City, Iowa, drawing over 3½ feet of water; and that no boat will be required to go above Sioux City with less than 100 tons of freight.

ARTICLE V. That it shall be the duty of George K. Hazlett, during the time that he shall be absent from Chicago, Ill., to designate and keep an agent at said place, and said George K. Hazlett, or in his absence from Chicago, Ill., his agent, shall be notified when

Government transportation is required; and in order that the said George K. Hazlett shall be in readiness to meet the demands and requirements made upon him for transportation under this contract or agreement, five days' written notice shall be given him or his agent of the quantity and kinds of stores to be transported at any one time, at what time the stores will be ready for delivery to him, and the place of their destination; it being expressly understood that no Government or Indian stores will be allowed to remain longer than ten days at Sioux City, Iowa, while in transitu under this agreement. And in case the said George K. Hazlett fails to furnish the transportation required by the United States Government, the quartermaster in charge of transportation at Chicago, Ill., or Sioux City, Iowa, may furnish the same, and charge the said George K. Hazlett for any expense incurred by the Government in excess of the rates herein provided.

ARTICLE VI. The military, Indian, and Government stores, supplies, wagons and stock which shall be transported under this agreement, shall be consigned to their respective destinations, and receipts on through bills of lading shall be given by the officer of the Quartermaster's Department serving at the place of consignment, for the full quantity of stores and supplies, and number of wagons and stock that shall be delivered; officers and soldiers shall be furnished with transportation orders, the certificates on which to be signed by them when the transportation shall have been furnished; and upon such receipts, payment shall be made to the said George K. Hazlett, as hereinafter provided; also, demurrage to be allowed boats for all unusual or unnecessary detention while en route, provided such detention is caused by proper military order in writing; bills of lading to contain the usual exceptions of the dangers of navigation and fire.

ARTICLE VII. In all cases when stores, supplies and stock have been transported by the said George K. Hazlett, under this agreement, a board of survey, to be applied for in writing by the contractor or his agent, (one member of which board shall be, when practicable, an officer on duty in the Subsistence Department,) shall be called without delay, on their arrival at the point of destination or delivery, to examine the quantity and condition of the property transported, and in case of loss, deficiency or damage, to investigate the facts and report the apparent causes, assess the amount of loss, deficiency or damage, and state whether it was attributable to neglect or want of proper care on the part of the contractor, or to causes beyond his control; and these proceedings, a copy of which shall be furnished to the contractor, shall be attached to the bill of lading, and shall govern the payments to be made on it. Should no board of survey be called when requested by the contractor, through failure on the part of the Quartermaster's Department, or other military authority, to have one convened, the indorsement of the receiving officer on the bill of lading shall alone govern its payment. But before such payment is made, the fact must be shown that the contractor, or his agent, did make application in writing to the quartermaster or receiving officer for a board of survey. If the amount of loss, deficiency or damage, exceeds the value of the bill of lading, it shall be deducted from any payments due or that may become due afterward.

In all cases when the full amount of stores, supplies or stock, is not delivered in accordance with the bill of lading, three times the cost price of the stores, supplies or stock deficient, together with the actual cost of the transportation of same from place of purchase to the point at which they were turned over to the said George K. Hazlett, shall be charged to him; it being understood that such charges apply only to deficiency (attributable to the fault of contractor) in the amount of stores, supplies or stock, delivered, and not to any damage of stores, supplies or stock, actually delivered at their destination—the assessment of such damage to be made by a board of survey, as above provided in this article.

ARTICLE VIII. For and in consideration of the faithful performance of the stipulations of this agreement, the said George K. Hazlett shall be paid at the office of the Quartermaster's Department at Chicago, Illinois, in the legal currency of the United States, agreeably to the rates specified in the tabular statement, remarks or memoranda hereto annexed, signed by the parties to this agreement.

ARTICLE IX. It is expressly understood that no member of Congress, officer, agent, or employé of the Government shall be admitted to any share or part in this contract or agreement, or derive any benefit to arise therefrom.

ARTICLE X. This contract is made subject to the approval of the commanding general of the Military Division of the Missouri.

In witness whereof, the undersigned have hereunto placed their hands and seals, at Chicago, the day and date first above written.

D. H. RUCKER,
Brevet Major General, Assistant Quartermaster General U. S. A.
GEORGE K. HAZLETT.

Witnesses:
GEO. FRANCIS NELSON,
WILLIAM H. MOWRY.

Contract for Missouri River, commencing March 20 and ending October 31, 1870, inclusive.

This agreement, made and entered into this 17th day of February, 1870, by and between Brevet Major General D. H. Rucker, Assistant Quartermaster General United States Army, for and on behalf of the United States, of the first part, and Hiram K. Hazlett, of St. Louis, Missouri, of the second part, his heirs, executors, and administrators, witnesseth: That the said parties have covenanted and agreed, and by these presents do covenant and agree to and with each other, viz:

ARTICLE I. That the said Hiram K. Hazlett shall furnish all the steamboat transportation required by the United States Government for officers and soldiers on the Missouri River, from St. Louis, Missouri, Wyandotte and Fort Leavenworth, Kansas, and Omaha, Nebraska, to Sioux City, Iowa, and Fort Benton, Montana Territory, and the posts or Indian agencies between Sioux City and Fort Benton, and which are mentioned in the tabular statement hereto annexed, and from Sioux City, Iowa, Yankton agency, Fort Randall, Whetstone, Lower Brulés, and Crow Creek agencies, Fort Sully, Big Cheyenne, and Grand River agencies, Forts Rice, Stevenson, and Buford, Dakota Territory, and Camp Cooke, Montana Territory, to any or all the posts or Indian agencies that are above, each respectively, at any time from March 20, 1870, to October 31, 1870, and shall receive, at any time during said period, from the officers or agents of the Quartermaster's Department, at St. Louis, Missouri, or any point between St. Louis and Fort Benton mentioned in the tabular statement hereto annexed, all such military, Indian, and Government stores, supplies, wagons and stock as may be offered or turned over to him for transportation, in good order and condition, by said officers or agents of the Quartermaster's Department, and transport the same with dispatch, and deliver them in like good order and condition to the officer or agent of the Quartermaster's Department designated to receive them at Sioux City, Iowa, or any of the posts or Indian agencies above that point, mentioned in the annexed tabular statement; all stores, supplies, wagons and stock, to be delivered at their destination within the year 1870. It being expressly understood that the contractor shall furnish the required transportation from any of the posts, stations, or Indian agencies mentioned in this article, to any post, station, or Indian agency that may be established on the Missouri River, between Sioux City, Iowa, and Fort Benton, Montana Territory, (if any one or more of the posts or Indian agencies named in this agreement are situated between the point of departure and the point of delivery,) at the rate herein provided for transportation from the point of departure to the nearest post or Indian agency named in this agreement, below the point of delivery, added to the rate to be fixed for the additional distance from such nearest post or Indian agency to the point of delivery; the rate of such additional distance to be the same per mile as from the point of departure to the nearest post or Indian agency named in this agreement, to the point of delivery. In case, however, none of the posts or Indian agencies named in this agreement is situated between the point of departure and the point of delivery, then the transportation shall be furnished at the same rate per mile as from the point of departure to the nearest post or Indian agency named in this agreement, above the point of delivery; the distances in all cases are to be determined by the chief quartermaster Military Division of the Missouri. For the faithful performance of the above service, the contractor shall be paid in the manner hereinafter provided in article 12 of this agreement, and at the rates specified and shown in the tabular statement and remarks or memoranda hereto annexed, as signed by the parties to this agreement, which statement and remarks or memoranda are considered a part hereof.

ARTICLE II. That the said Hiram K. Hazlett agrees and binds himself, his heirs, executors, and administrators, to transport, under this agreement, from and to any of the posts, stations, or Indian agencies named or referred to in Article I of this agreement, any number of pounds of stores and supplies from and between 100,000 pounds and 20,000,000 pounds in the aggregate, and in no case to carry private freight or stock to the exclusion of that belonging to the Government.

ARTICLE III. That the said Hiram K. Hazlett agrees and binds himself, his heirs, executors, and administrators, to transport military, Indian, and Government stores, supplies, and wagons by land to Sioux City, or posts, or Indian agencies above, from St. Louis, Missouri, or any intermediate point mentioned or referred to in annexed tabular statement, or in Article I of this agreement, in the event of failure by river, without any additional charge to the United States Government, but at the rates specified in the annexed tabular statement, and remarks or memoranda above referred to, or indicated in Article I of this agreement; a sufficient guard to be furnished by the Government, when required, to protect stores, supplies, or wagons, while in transitu overland, by application of contractor or his agent to the commanding officer of the nearest military post.

ARTICLE IV. That the said Hiram K. Hazlett agrees and binds himself to furnish such steamboats only as shall be approved by the inspector or inspectors of the St. Louis, Missouri, board of underwriters, and as shall be safe and satisfactory to the quartermaster in charge of transportation at St. Louis, Missouri; shall provide officers with

cabin passage, allowing 100 pounds of baggage to each, free of charge; and that the said steamboats shall be furnished with kitchen-room and cooking-stoves, and all proper accommodations for the use of such troops as may be transported, 80 pounds of baggage to be allowed each soldier, free of charge; also be provided with troughs and proper conveniences for transporting and feeding horses, mules, and cattle, 180 pounds being allowed for each, free of charge; it being expressly understood that no steamboat will be required to go above Sioux City with less than 100 tons of freight, and that no boat loaded with Government property will be allowed to go above Sioux City, Iowa, drawing over 3½ feet of water.

ARTICLE V. That it shall be the duty of said Hiram K. Hazlett, during the time that he shall be absent from St. Louis, Missouri, to designate and keep an agent at said place, and said Hiram K. Hazlett, or, in his absence from St. Louis, Missouri, his agent, shall be notified when Government transportation is required at either of the points mentioned or referred to in Article I of this agreement; and in order that the said Hiram K. Hazlett shall be in readiness to meet the demands and requirements made upon him for transportation under this contract or agreement, due written notice shall be given him or his agent of the quantity and kind of stores to be transported at any one time, at what time the stores will be ready for delivery to him, and the place of their destination; that is to say, five days' notice when transportion is required at St. Louis, Missouri; five days' notice when transportation is required at Wyandott, Kansas; eight days' notice when transportation is required at Fort Leavenworth, Kansas; ten days' notice when transportation is required at Omaha, Nebraska; ten days' notice when transportation is required at Sioux City, Iowa; fifteen days' notice when transportation is required at Fort Randall, Dakota Territory; twenty days' notice when transportation is required at Fort Sully, Dakota Territory; twenty-five days' notice when transportation is required at Fort Rice, Dakota Territory; thirty-five days' notice when transportation is required at Fort Stevenson, Dakota Territory; forty days' notice when transportation is required at Fort Buford, Dakota Territory; and fifty days' notice when transportation is required at Camp Cooke, Montana Territory. And in case the said Hiram K. Hazlett fails to furnish the transportation required by the United States Government, the quartermaster in charge of transportation at any of the aforesaid posts or stations may furnish the same, and charge the said Hiram K. Hazlett for any expense incurred by the Government in excess of the rates herein provided.

ARTICLE VI. The military, Indian, and Government stores, supplies, wagons, and stock which shall be transported under this agreement, shall be consigned to their respective destinations, and receipts on bills of lading shall be given by the officer of the Quartermaster's Department serving at the place of consignment for the full quantity of stores and supplies and number of wagons and stock that shall be delivered; officers and soldiers shall be furnished with transportation orders, the certificates on which to be signed by them when the transportation shall have been furnished; and upon such receipts payment shall be made to the said Hiram K. Hazlett as hereinafter provided; also demurrage to be allowed boats for all unusual or unnecessary detention when en route, provided such detention is caused by proper military order in writing; bills of lading to contain the usual exceptions of the dangers of navigation and fire.

ARTICLE VII. In all cases when stores, supplies, and stock have been transported by the said Hiram K. Hazlett, under this agreement, a board of survey, to be applied for in writing by the contractor or his agent, (one member of which board shall be, when practicable, an officer on duty in the Subsistence Department,) shall be called without delay, on their arrival at the point of destination or delivery, to examine the quantity and condition of the property transported, and in case of loss, deficiency, or damage, to investigate the facts and report the apparent causes, assess the amount of loss, deficiency, or damage, and state whether it was attributable to neglect or want of proper care on the part of the contractor, or to causes beyond his control; and these proceedings, a copy of which shall be furnished to the contractor, shall be attached to the bill of lading, and shall govern the payments to be made on it. Should no board of survey be called when requested by the contractor, through failure on the part of the Quartermaster's Department or other military authority to have one convened, the indorsement of the receiving officer on the bill of lading shall alone govern its payment. But before such payment is made the fact must be shown that the contractor or his agent did make application in writing to the quartermaster or receiving officer for a board of survey. If the amount of loss, deficiency, or damage exceeds the value of the bill of lading, it shall be deducted from any payments due or that may come due afterward. In all cases when the full amount of stores, supplies, or stock is not delivered in accordance with the bill of lading, three times the cost price of the stores, supplies, or stock deficient, together with the actual cost of the transportation of same from place of purchase to the point at which they were turned over to the said Hiram K. Hazlett, shall be charged to him; it being understood that such charges apply only to deficiency (attributable to the fault of contractor) in the amount of stores, supplies, or stock delivered, and not to any damage of stores, supplies, or stock actually delivered at their destination; the assessment of such damage to be made by a board of survey, as above provided in this article.

ARTICLE VIII. It is understood that the Government will, whenever it is deemed advisable, contract for forage, to be delivered at Sioux City, Iowa, and Fort Benton, Montana Territory, or any post, station, or Indian agency between Sioux City and Fort Benton, mentioned in the tabular statement hereto annexed, or at any post, station, or Indian agency that may be established between Sioux City and Fort Benton.

ARTICLE IX. It is understood that nothing herein contained shall be so construed as to prevent the United States Government from transporting troops, or public property of any kind, on any boat belonging to the Government.

ARTICLE X. It is expressly understood that nothing herein contained shall be so construed as to prevent the United States from transporting public or Indian stores, supplies, wagons, horses, mules, or cattle, on through bills of lading, or from transporting troops from Chicago, Ill., to posts on the Missouri River, above Sioux City, Iowa, mentioned or referred to in annexed tabular statement, or in Article I, of this agreement, and thereby using other steamboats than those in the interest of said Hiram K. Hazlett.

ARTICLE XI. It is understood that if, at any time from March 20 to October 31, 1870, inclusive, troops, stores, supplies, wagons, or stock are required to be transported down stream from Fort Benton, M. T., or from any post or station between Fort Benton and St. Louis, mentioned in annexed tabular statement, to St. Louis, or from and to any point between Fort Benton and St. Louis, they shall be carried on the same terms and conditions herein provided for up-stream transportation; provided always, that the said Hiram K. Hazlett shall not be compelled to send a steamboat up stream for this exclusive purpose, unless to bring down at least one hundred and sixty tons of freight.

ARTICLE XII. For and in consideration of the faithful performance of the stipulations of this agreement, the said Hiram K. Hazlett shall be paid at the office of the Quartermaster's Department at St. Louis, Mo., in the legal currency of the United States, agreeably to the rates specified in the tabular statement, remarks or memoranda hereto annexed, signed by the parties to this agreement.

ARTICLE XIII. It is expressly understood that no member of Congress, officer, agent. or employé of the Government shall be admitted to any share or part in this contract or agreement, or derive any benefit to arise therefrom.

ARTICLE XIV. This contract is made subject to the approval of the Commanding General of the Military Division of the Missouri.

In witness whereof, the undersigned have hereunto placed their hands and seals, at Chicago, Ill., the day and date first above written.

D. H. RUCKER,
Brevet Major General, Assistant Quartermaster General U. S. Army.
HIRAM K. HAZLETT.

Witnesses:
GEORGE FRANCIS NELSON.
E. M. WHITE.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs, July 22, 1870.

COMMISSIONER: I am directed by the Hon. Secretary of the Interior to inform you that it is desired to have some presents purchased for the Osages, to be issued to them at the council to be held on or about the 20th proximo, in the country to which they are to be removed; the kind and quantity of the articles to be determined by you.

Very respectfully, your obedient servant,

WM. F CADY,
Acting Commissioner.

Hon. E. S. PARKER,
Commissioner Indian Affairs.
(Care of Messrs. Buckley, Welling & Co., 380 and 382 Broadway, New York City.)

[Telegram.]

DEPARTMEMT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., September 5, 1870.

To the publisher of the Chicago Republican, Chicago, Illinois:

Continue advertisement for proposals for supplies for Indians, dated 26th ultimo, in your paper until the 12th instant, with following addition:

Notice.—The time for receiving proposals, under the above advertisement, is extended to 12th instant, at 12 m.

E. S. PARKER,
Commissioner.

[Copy telegraphed to all papers West, publishing advertisement.]

Estimate of subsistence supplies required at Whetstone agency, Dakota Territory, for issue to Indians, for nine months commencing October 1, 1870, *and ending June* 30, 1871, (273 *days,*) *by Captain De Witt C. Poole, United States Army, and Indian agent.*

Agency.	No. to be supplied.	No. of days.	No. of rations.	Rations of—					
				Bacon.	Flour.	Coffee.	Sugar.	Soap.	Salt.
Whetstone, Dakota Territory.	5,000	273	1,365,000	180,000	1,365,000	1,365,000	1,365,000	1,365,000	1,365,000
Amount required				180,000	1,365,000	1,365,000	1,365,000	1,365,000	1,365,000
Amount that will be on hand Sept. 30, 1870				180,000	1,365,000	1,365,000	1,365,000	1,365,000	1,365,000
Amount to be supplied				180,000	1,365,000	1,365,000	1,365,000	1,365,000	1,315,000
Quantity in pounds net				135,000	682,500	27,300	54,600	13,650	13,650

Prices current for cattle in Chicago in June, 1870.

LIVE STOCK MARKET.

June 15.—Cattle: Receipts, 1,861 head. Sales, 554 head, at $4 75 for cows; $6 75 *a* $7 00 for light; $7 75 *a* $8 55 for good to choice; and $8 75 *a* $9 00 for extra to prime shipping beeves. Market quiet and unchanged. Demand almost exclusively for the upper qualities.

No.	Average.	Price.	No.	Average.	Price.	No.	Average.	Price.
34	1,214	$7 75	16	1,319	$8 87½	21	1,032	$5 50
17	800	4 75	20	870	4 00	32	1,313	9 00
36	1,230	8 37½	30	1,265	9 00	18	1,008	7 00
20	1,017	5 50	17	1,058	8 12½	17	1,162	7 75

June 18.—Cattle: Receipts, 309 head. Sales, 875 head, at $3 25 *a* $4 50 for common to fair Texan steers; $4 00 *a* $6 65 for stock and butchers' cattle; $6 25 *a* $8 25 for fair to choice; and $8 45 *a* $8 60 for extra shipping steers. Market very active but prices low and variable.

No.	Average.	Price.	No.	Average.	Price.	No.	Average.	Price.
12	1,183	$7 80	9	940	$5 75	35	1,174	$5 75
16	1,145	6 80	15	751	4 00	85	324	3 25

June 20.—Cattle: Receipts, 2,005 head. Sales, 997 head, at $3 75 *a* $5 25, for Texan steers and native cows; $5 50 *a* $6 50 for fair to good butchers' steers; $7 00 *a* $7 87½ for good to choice; and $8 00 *a* $8 87½ for extra shipping steers. The market opened active and steady at about Saturday's figures, but closed dull, heavy, and drooping, on account of dispatches from New York quoting a decline of $1 50 per 100 pounds.

No.	Average.	Price.	No.	Average.	Price.	No.	Average.	Price.
31	1,325	$8 35	91	1,000	$3 75	23	1,330	$8 37½
31	1,270	8 25	51	1,166	7 62½	17	1,272	8 50
47	1,237	7 87½	90	1,461	8 62½	45	1,372	8 87½
14	1,240	6 50	9	1,100	5 25	60	1,326	7 24

June 22.—Cattle: Receipts, 1,617 head. Sales, 515 head, at $3 50 *a* $5 50 for Texan and stock cattle; $6 00 *a* $7 12½ for light to fair; $7 50 *a* $8 50 for good to choice; and $8 85 for extra prime beeves. Market quiet at about previous quotations.

No.	Average.	Price.	No.	Average.	Price.	No.	Average.	Price.
52	1,125	$7 50	16	1,023	$6 00	17	922	$5 50
36	958	5 00	17	1,091	7 75	26	652	2 50
18	930	6 00	7	721	3 50	19	953	6 00
16	970	6 25						

June 27.—Cattle: Receipts, 1,965 head. Sales, 1,618 head at $3 25 *a* $6 10 for Texan steers and cows; $6 75 *a* $7 62½ for fair to medium; and $8 *a* $8 75 for good to extra shipping steers. A premium lot, averaging 1,403 pounds, sold at $9 25. Upper grades active, steady, and firm; other descriptions quiet, and nominally unchanged.

No.	Average.	Price.	No.	Average.	Price.	No.	Average.	Price.
52	1,100	$7 15	90	1,008	$3 30	68	1,103	$6 40
18	930	3 25	53	752	3 35	48	1,363	8 75
150	1,400	8 75	56	1,355	8 62½	37	950	3 25
80	1,207	8 00	40	1,167	7 62½	16	1,143	6 75

June 29.—Cattle: Receipts, 1,995 head. Sales, 1,040 head, at $4 25 *a* $6 for common to fair cows and light steers; $6 25 *a* $7 50 for medium to good, and $7 87½ *a* $8 25 for good to choice fleshy steers. Prices steady, and market active on local and shipping account.

No.	Average.	Price.	No.	Average.	Price.	No.	Average.	Price.
20	912	$5 40	17	1,175	$8 15	35	1,123	$8 00
48	1,138	7 50	48	1,162	8 10	35	1,163	8 12½
18	773	5 00	31	1,172	7 87½	8	918	4 25
10	893	4 50						

June 30.—Cattle: Receipts, 2,130 head. Sales, 962 head, at $3 *a* $5 75 for Texan and butchers' cattle; $6 *a* $7 for fair to medium; $7 25 *a* $8 25 for good to choice, and $8 50 *a* $9 for extra to premium shipping steers. Market steady and firm under an active inquiry; chiefly, however, for shipment.

No.	Average.	Price.	No.	Average.	Price.	No.	Average.	Price.
29	960	$5 30	16	1,020	$7 00	16	1,200	$8 50
51	1,185	8 15	10	1,031	7 25	61	1,354	9 00
32	1,205	8 12½	38	915	5 37½	50	1,193	8 25

J. W. Bosler, Esq., in account with Jay Cooke & Co., New York.

Dr.				Cr.		
1870.	By draft—		1870.	Balance		$3,059 74
June 9	B. W. Posey & Co	$200 00	May 30	Interest to date		131 02
June 16	Self	100 00	June 7	B. F. Rice, and interest		5,030 13
June 16	S. Hawk	100 00	June 16	Rem		15,000 00
June 16	Berger, Hurlbut & Livingston.	10,000 00	July 29	Carlisle Dep. bank drafts		20,150 00
			Aug. 5	Rem		137,574 11
June 16	Stanton, Sheldon & Co	10,000 00	Aug. 26	Rem		97,550 14
June 18	Jesse Oakley & Co., (D. W. C. Wheeler, indorser.)	1,027 20	Sept. 2	Interest to date		157 11
			Sept. 2	Rem		160,124 12
June 30	P. B. Weir & Co	100 00	Sept. 28	Error and interest		12,006 56
July 8	P. B. Weir & Co	8,000 00	Oct. 6	Bosler & Brother		20,000 00
July 11	Jos. Bosler	100 00	Oct. 12	D. W. C. Wheeler		15,000 00
July 11	Jos. Bosler	3,150 00	Oct. 21	Carlisle Dep. draft		12,000 00
July 11	Jos. Bosler	9,000 00	Oct. 28	Rem		95,664 44
July 27	National Bank, Omaha	100 00	Oct. 29	Rem		177,135 29
Aug. 1	S. Hawk	100 00	Nov. 5	Rem		137,791 89
Aug. 3	W. Hawk	100 00	Dec. 1	Rem		201,929 56
Aug. 5	Park National Bank	50,000 00	Dec. 1	Interest to date		967 40
Aug. 5	Guthrie Kuntz	45,000 00	Dec. 22	Rem		23,855 00
Aug. 5	A. S. H. White	25 00	1871.			
Aug. 5	Self	100 00	Jan. 3	Interest		805 49
Aug. 6	S. Hawk	100 00				
Aug. 6	J. Bayley, jr	38 50				
Aug. 9	J. P. Hassler, cashier	35,000 00				
Aug. 17	D. W. C. Wheeler	2,500 00				
Aug. 20	Tiffiny & Co	397 86				
Aug. 20	Pool, Nazoo, Kimball & Co	100 00				
Aug. 23	S. Hawk	100 00				
Aug. 30	J. P. Hassler, cashier	50,000 00				
Sept. 2	Self	100 00				
Sept. 3	J. W. Bosler, (D. W. C Wheeler, indorser.)	60,969 63				
Sept. 5	John Miller	60 00				
Sept. 7	D. W. C. Wheeler	12,000 00				
Sept. 7	Edward Fenton & Co	1,693 20				
Sept. 7	J. W. Bosler, (J. H. Bosler & Brother, indorsers.)	31,668 00				
Sept. 19	Gage Brothers & Walters	100 00				
Sept. 19	Weir & Allison	10,000 00				
Sept. 19	John L. Hancock	10,000 00				
Sept. 23	Gage Brothers & Walters	100 00				
Sept. 24	Gage Brothers & Walters	12,000 00				
Sept. 27	George H. Charles	5,000 00				
Sept. 27	A. Konntz, cashier	3,900 00				
Sept. 28	Gage Brothers & Walters	100 00				
Sept. 29	John L. Hancock	30,000 00				
Oct. 3	J. H. Bosler	16,000 00				
Oct. 3	Gage Brothers & Walters	120 25				
Oct. 7	Bank of Omaha	200 00				
Oct. 7	John H. Greene	2,000 00				
Oct. 10	J. G. Hoffmeyer	2,695 75				
Oct. 10	Weir Allison	5,000 00				
Oct. 13	John L. Hancock	45,700 00				
Oct. 14	Joab Lawrence	1,364 00				
Oct. 17	A. R. Potts	50 00				
Oct. 19	J. P. Hassler, cashier	1,000 00				
Oct. 20	John H. Charles	5,000 00				
Oct. 21	Self	500 00				
Oct. 21	National Park Bank	10,000 00				
Oct. 22	Tiffany & Son	602 20				
Oct. 24	Pool, Nazro, Kimball & Co	100 00				
Oct. 29	Kuntz & Brother	30,000 00				
Oct. 29	Kuntz & Brother	40,000 00				
Oct. 31	Joab Lawrence, president	45,374 87				
Nov. 1	J. C. & Co., ——	100 00				
Nov. 1	Hotchkiss	50 00				
Nov. 3	Kuntz & Brother	40,000 00				
Nov. 3	J. P. Hassler, cashier	5,000 00				
Nov. 7	Field, Lester & Co., (Randall & Miner, indorsers.	2,850 00				
Nov. 8	Kuntz Brothers	20,000 00				
Nov. 11	Kuntz Brothers	75,000 00				
Nov. 11	John N. Eby	100 00				
Nov. 11	Self	100 00				
Nov. 12	A. R. Potts	50 00				
Nov. 12	John H. Charles	12,655 25				
Nov. 14	G. D. Nutter	1,500 00				
Nov. 16	Kuntz Brothers, (Joab Lawrence, indorser.)	11,500 00				
Nov. 16	J. P. Hassler, (J. P. Hassler, cashier, indorser.)	3,300 00				
Nov. 17	J. P. Hassler, cashier	20,000 00				
Nov. 22	Kuntz Brothers, (Joab Lawrence, indorser.)	4,229 50				

J. W. Bosler, Esq., in account witd Jay Cooke & Co., New York—Continued.

Dr.				Cr.	
Nov.	22	John Brady	19 50		
Nov.	26	D. W. C. Wheeler	10,000 00		
Nov.	30	J. P. Hassler, cashier	12,082 72		
Dec.	2	Kuntz Brothers	87,000 00		
Dec.	2	A. S. H. White	125 00		
Dec.	5	A. Bosler	5,000 00		
Dec.	6	Kuntz Brothers	2,742 75		
Dec.	10	Self	500 00		
Dec.	10	Tiffany & Co	374 00		
Dec.	12	Buckly, Willy & Co	100 00		
Dec.	17	Leonard, Shelton & Foster	15,000 00		
Dec.	20	C. D. Woolworth	2,656 25		
Dec.	21	F. Rossue & Son	110 37		
Dec.	23	J. P. Hassler	6,000 00		
Dec.	23	J. P. Hassler	4,000 00		
Dec.	27	National Park Bank	10,000 00		
1871.					
Jan.	3	J. P. Hassler, cashier	10,000 00		
Jan.	17	J. W. Bosler	20 00		
Jan.	20	A. Kountz	5,000 00		
Jan.	21	Potter & Stymas	900 00		
Jan.	24	J. B. Dillon	11,640 00		
Jan.	25	J. A. Marlow	3,000 00		
Jan.	26	R. A. Busher	2,000 00		
Jan.	27	J. A. Marlow	3,000 00		
Jan.	27	J. A. Marlow	3,000 00		
		Balance	136,390 20		
		Total	1,135,932 00	Total	1,135,932 00
				Balance	136,390 00

STATE, CITY, AND COUNTY OF NEW YORK, *ss:*

I, J. D. Freeborn, being duly sworn, do depose and say that the above is a correct transcript of J. W. Bosler's account since May 30, 1870.

J. D. FREEBORN.

[SEAL.]

DUNCAN McGREGOR,
Notary Public, New York City and County.

No. 1.

OFFICE OF THE NORTHWEST TRANSPORTATION COMPANY,

Joab Lawrence, Pres't & Sup't.
C. D. Woolworth, Sec.
Sam. DeBow, Gen'l Ag't.

(Sioux City and Fort Benton Line of Steamers,
Sioux City, Iowa, November 14, 1870.

UNITED STATES,

To C. D. WOOLWORTH, secretary Northwest Transportation Company, DR.

To transportation of Indian supplies and annuities from Sioux City as follows:

Articles.	Destination.	Weight.	Rate.	Amount.
1,212 bags flour	Whetstone	121,200	$3 25	$3,939 00
57 packages annuities	Fort Berthold	7,220	7 50	541 50
Total				4,480 50

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Andrew Ackley, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain W. Clifford, at Fort Berthold, Dakota Territory, (the dangers of river navigation, fire, explosion, and collision excepted, at the rate of —— as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss, or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

SIOUX CITY, IOWA, *September* 24, 1870.

Through from ——— *to* ———, *at* —— *per* 100 *pounds.*

Marks or numbers: Captain W. Clifford, United States agent, Fort Berthold, Dakota Territory. Articles: 4 bales merchandise, 20 cases merchandise, 33 caddies tobacco. Weight: 7,220 pounds.

Received at Fort Berthold, Dakota Territory, October 17, 1870, the above goods in good order and condition of steamer Andrew Ackley.

W. CLIFFORD,
Captain United States Army, Indian Agent.

SIOUX CITY, IOWA, *October* 30, 1870.

Received of the steamer North Alabama on board the steamboat Miner the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major D. C. Poole, United States agent, at Whetstone agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of —— as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss, or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowing thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* —— *per* 100 *pounds.*

Marks or numbers: Major D. C. Poole, United States agent, Whetstone agency. Articles: 1,212 bags flour. Weights: ——.

GOULD, *Clerk.*

WHETSTONE AGENCY, DAKOTA TERRITORY,
November 3, 1870.

Received the above twelve hundred and twelve (1,212) sacks of flour.

DE WITT C. POOLE,
Captain United States Army, Indian Agent.

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
January 21, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH,
Second Auditor.

No. 2.

ORFICE OF THE NORTHWEST TRANSPORTATION COMPANY,
Joab Lawrence, Pres't and Sup't. } (Sioux City and Fort Benton Line of Steamers,)
C. D. Woolsworth, Secretary. } *Sioux City, Iowa, December* 8, 1870.
Sam. De Bow, General Agent. }

UNITED STATES

To C. D. WOOLWORTH, Secretary Northwest Transportation Company, DR.
To transportation from Sioux City to Indian agencies on Missouri River, as follows:

Articles.	Destination.	Weight.	Rate.	Amount.
		Pounds.		
157 bags flour	Whetstone agency ...	15,700	$3 25	$510 25
75 bags flour	Yankton agency.....	75,000	2 25	168 75
1,241 bags flour	Yankton agency.....	124,100	2 25	2,792 25
Total	.....	214,800	.....	3,471 25

SIOUX CITY, IOWA, *November* 9, 1870.

Received of the Hon. E. S. Parker, Commissioner Indian Affairs, on board the steamboat, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major J. M. Goodhue, United States Army, and Indian agent at Yankton Agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of, as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass, and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

For United States Indian agent, Yankton agency, 75 sacks flour, 7,500 pounds.
Received the above in apparent good order, (75 sacks flour.)

J. M. GOODHUE,
Major United States Army and Indian Agent.

SIOUX CITY, IOWA, *November* 5, 1870.

Received of the Hon. E. S. Parker, Commissioner of Indian Affairs, on board the steamboat, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain D. C. Poole, Indian agent at Whetstone agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of, as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass, and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from Sioux City to Whetstone agency, at ——— *per* 100 *pounds.*

One hundred and fifty-seven sacks flour, for D. C. Poole, captain United States Army, Whetstone agency; weight, 15,700 pounds.
Received 157 sacks of flour in good order and condition.

J. M. WASHBURN,
United States Indian Agent.

SIOUX CITY, IOWA, *November* 26, 1870.

Received of the Hon. E. S. Parker, Commissioner of Indian Affairs, on board the steamboat, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major S. D. Webster, United States Indian agent at Yankton agency, Dakota Territory, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of, as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss, damage, or leakage of all kinds of liquids, breakage of marble, glass, and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

One thousand two hundred and forty-one sacks flour, for S. D. Webster, United States Indian agent, Yankton agency; weight, 124,100 pounds.
Received the above 1,241 sacks flour in apparent good order.

S. D. WEBSTER,
United States Agent, Yankton Sioux.

TREASURY DEPARTMENT,
Second Auditor's Office, January 21, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH,
Second Auditor.

No. 3.

OFFICE OF THE NORTHWEST TRANSPORTATION COMPANY,

Joab Lawrence, Pres't & Sup't.
C. D. Woolworth, Sec'y.
Sam. DeBow, Gen'l Agent.

(Sioux City and Fort Benton Line of Steamers,)
Sioux City, Iowa, November 22, 1870.

THE UNITED STATES

To C. D. WOOLWORTH, secretary Northwest Transportation Company, DR.

For transportation from Sioux City to Whetstone agency of 1,219 sacks flour, 121,900 pounds, at $3 25 per 100 pounds $3,961 75

Received of E. S. Parker. Commissioner of Indian Affairs, on board the steamboat Ida Reese No. 2, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major D. C. Poole, United States agent at Whetstone agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of, as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* —— *per* 100 *pounds.*

Marks or numbers.	Articles.	Weights.
Major D. C. Poole, United States Indian agent, Whetstone agency, Dakota Territory.	1,225 bags flour. 6 sacks short. 1,219	121,900

Received the above 1,219 sacks of flour in good order and condition.

DE WITT C. POOLE,
United States Army and Indian Agent.

WHETSTONE AGENCY, D. T., *November* 15, 1870.

TREASURY DEPARTMENT,
Second Auditor's Office, January 21, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH,
Second Auditor.

No. 4.

OFFICE OF THE NORTHWEST TRANSPORTATION COMPANY,
(Sioux City and Fort Benton Line of Steamers.)

Joab Lawrence, Pres't & Sup't.
C. D. Woolworth, Sec'y!
Sam. De Bow, Gen'l Agent.

Sioux City, Iowa, November 10, 1870.

UNITED STATES To C. D. WOOLWORTH, Secretary Northwest Transportation Co., DR.

To transportation of Indian supplies from Sioux City to agencies on Missouri River as follows:

Articles.	Destination.	Weight.	Rate.	Amount.
		Pounds.		
300 bags flour	Crow Creek agency	30,000	$4 25	$1,275 00
355 bags bacon	Crow Creek agency	70,007	4 25	2,975 30
500 bags flour	Cheyenne agency	50,000	5 25	2,625 00
1,528 bags flour	Grand River agency	152,800	6 25	9,550 00
Total		302,807		16,425 30

SIOUX CITY, IOWA, *October* 16, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Ida Reese No. 2, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain W. H. French, United States agent at Crow Creek agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

300 bags flour, for Captain W. H. French, United States Indian agent, Crow Creek agency, Dakota Territory; weight 30,000 pounds.

Received the above in good order and condition.

WM. H. FRENCH, JR.,
First Lieutenant U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *October* 16, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Ida Reese No. 2, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain W. H. French, United States agent at Crow Creek agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is a part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

355 sacks bacon, for Captain W. H. French, United States Indian agent, Crow Creek agency, Dakota Territory; weight, 70,007 pounds.

Received the above in good order and condition.

W. H. FRENCH, JR.,
First Lieutenant U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *October* 16, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Ida Reese No. 2, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major J. A. Herne, United States agent at Grand River agency, (the dangers of river navigation, fire, explosion and collision excepted,) at the rate of as per contract and charges, upon the following conditions.

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from —— to ——, at —— per 100 *pounds.*

1,528 bags flour, for Major J. A. Herne, United States Indian agent, Grand River agency, Dakota Territory; weight, 752,800 pounds.

Received in good order October 31, 1870, at Grand River agency, Dakota Territory.

J. A. HERNE,
Captain U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *October* 16, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Ida Reese No. 2, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major G. M. Randall, United States agent at Cheyenne agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss, or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from —— to ——, at —— per 100 *pounds.*

500 bags flour, for Major G. M. Randall, United States Indian agent, Cheyenne, agency; weight, 50,000 pounds.

Received October 28, 1870, in good order and condition.

GEO. M. RANDALL,
Captain United States Army, Indian Agent.

TREASURY DEPARTMENT,
Second Auditor's Office, January 21, 1871.

I certify the foregoing to be true copies of the original filed in this office.

E. B. FRENCH,
Second Auditor.

No. 5.

OFFICE OF THE NORTHWEST TRANSPORTATION COMPANY,
Joab Lawrence, Pres't and Sup't. } (Sioux City and Fort Benton Line of Steamers,)
C. D. Woolworth, Sec'y. } *Sioux City, Iowa, October* 15, 1870.
Sam. DeBow, Gen'l Agent. }

THE UNITED STATES
To C. D. WOOLWORTH, secretary Northwest Transportation Co., DR.

For transportation of Indian supplies from Sioux City, as follows:

Articles.	Destination.	Weight.	Rate.	Amount.
		Pounds.		
1,117 bags flour	Yankton agency	111,700	$2 25	$2,513 25
1,706 bags flour	Whetstone agency	170,600	3 25	5,544 50
719 bags bacon	Whetstone agency	140,131	3 25	4,554 25
515 packages supplies and merchandise.	Whetstone agency	95,020	3 25	3,088 15
1,760 bags flour	Whetstone agency	176,000	3 25	5,720 00
2,200 bags flour	Crow Creek agency	220,000	4 25	9,350 00
Total		913,451		30,770 15

SIOUX CITY, IOWA, *October* 6, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Miner, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major J. M. Goodhue, at Yankton agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass, and hardware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

1,117 bags flour, for Major J. M. Goodhue, United States Indian agent, Yankton agency; weight, 111,700 pounds.

YANKTON AGENCY, *October* 9, 1870.

Received the above 1,117 bags flour in good order.

J. M. GOODHUE,
Major United States Army, Indian Agent.

SIOUX CITY, IOWA, *October* 7, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat North Alabama, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major D. C. Poole, United States agent at Whetstone agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss, or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from —— *to* ——, *at* —— *per* 100 *pounds.*

1,706 bags flour, for Major D. C. Poole, United States Indian agent, Whetstone agency, Dakota Territory; weight, 170,600 pounds.

WHETSTONE AGENCY, D. T., *October* 12, 1870.

Received the above flour in apparent good order, 1,706 sacks.

DEWITT C. POOLE,
Captain United States Army, Indian Agent.

SIOUX CITY, IOWA, *October* 7, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat North Alabama, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major D. C. Poole, United States agent at Whetstone agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from —— *to* ——, *at* —— *per* 100 *pounds.*

719 sacks bacon, for Major D. C. Poole, United States Indian agent at Whetstone agency, Dakota Territory; weight, 140,131 pounds.

WHETSTONE, D. T., *October* 12, 1870.

Received the above bacon in good order.

DEWITT C. POOLE,
Captain United States Army, Indian Agent.

SIOUX CITY, IOWA, *September* 30, 1870.

Received of E. S. Parker, Commissioner Indian Affairs, on board the steamboat Deer Lodge, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from —— to ——, at —— per 100 *pounds.*

Marks or numbers.	No. of car.	Articles.	Weight.
			Pounds.
Captain D. C. Poole, Whetstone agency, Dakota Territory.	5066	80 barrels sugar.	
	3060	80 barrels sugar.	
	5484	43 barrels sugar.	
		203 barrels sugar.....	48,491
	2910	184 boxes soap.....	12,880
	2846	32 boxes tobacco.....	7,625
	2335	14 bales merchandise..	7,394
		19 boxes merchandise .	
	4129	3 boxes hats.....	14,900
		48 bales merchandise..	
	3000	12 boxes merchandise .	3,730
Total.....	.....	.....	95,020

WHETSTONE AGENCY, D. T., *October* 10, 1870.

Received the above-mentioned goods in good order and condition.

DEWITT C. POOLE,
Captain United States Army, Indian Agent.

SIOUX CITY, IOWA, *September* 30, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Deer Lodge, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain D. C. Poole, Indian agent, Whetstone agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods:

Through from —— to ——, at —— per 100 *pounds.*

1,760 sacks flour, for Captain D. C. Poole, Indian agent, Whetstone agency, Dakota Territory, 176,000 pounds.

WHETSTONE AGENCY, D. T., *October* 10, 1870.

Received the above-mentioned goods in good order and condition.

DEWITT C. POOLE,
Captain United States Army, Indian Agent.

SIOUX CITY, IOWA, *October* 6, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Sioux City, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain W. H. French, Indian agent at Crow Creek agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of, as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper, hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods:

Through from ——— *to* ———, *at* —— *per* 100 *pounds.*

2,200 sacks flour, (no marks;) weight, 220,000 pounds.

CROW CREEK AGENCY, *October* 12, 1870.

Received the above in good condition.

WM. H. FRENCH, JR.,
First Lieutenant United States Army, Indian Agent.

OFFICE OF THE NORTHWEST TRANSPORTATION COMPANY,
Joab Lawrence, Pres't & Sup't.
C. D. Woolworth, Sec'y.
Sam. DeBow, Gen'l Agent.
(Sioux City and Fort Benton Line of Steamers,)
Sioux City, Iowa, October 10, 1870.

UNITED STATES
To C. D. WOOLWORTH, secretary Northwest Transportation Company, DR.

To transportation of Indian supplies, &c., as follows:

April 14.—1 bl. & bx. from Sioux City to Fort Berthold, 160 lbs., at 7½c.....	$12 00
April 20.—114 p'ks sundries, from Sioux City to Fort Berthold, 16,091, at 7½c.	1,206 82
4 horses, from Sioux City to Fort Berthold, $52 each.....	208 00
2 bx. drugs, from Sioux City to Grand River, 400 lbs., at 6¼c.....	25 00
	1,451 82

SIOUX CITY, IOWA, *April* 14, 1870.

Received of Governor John A. Burbank, on board the steamboat Deer Lodge, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major W. Clifford at Berthold Indian agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from Sioux City to Fort Berthold, at ——— *per* 100 *pounds.*

1 barrel garden seed, weight, 100 pounds; 1 box and contents, weight, 60 pounds; from Governor John A. Burbank, for Major W. Clifford, Berthold agency.

Received the above in good order at Fort Berthold.

W. CLIFFORD,
Captain U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *April* 20, 1870.

Received of Governor John A. Burbank, on board the steamboat Silver Lake No. 4, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain W. Clifford at Fort Berthold agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— to ———, at ——— per 100 *pounds.*

Marks or numbers.	Articles.	Weights.
		Pounds.
Captain W. Clifford, Fort Berthold agency, Dakota Territory.	17 barrels seeds	4,043
	2 bundles harness	95
	10 sacks seeds	1,120
	1 sack seeds	
	9 sacks seeds	1,025
	10 sacks seeds	1,320
	42 sacks seeds	6,000
	8 stirring-plows	540
	3 breaking-plows	465
	1 horse-cultivator	260
	2 horse-rakes	275
	2 grindstones	150
	1 platform scales	190
	1 corn-planter	14
	4 bundles iron	455
	1 box sundries	139
	4 horses and feed	.....
	.....	16,091

Received the above in good condition.

W. CLIFFORD,
Captain U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *May* 31, 1870.

Received of the governor, J. A. Burbank, on board the steamer North Alabama, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major J. A. Hearn at Grand River agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— to ———, at ——— per 100 *pounds.*

Seven boxes drugs for Major J. A. Hearn, United States Indian agent, Grand River agency; weight, 400 pounds.

Received, Grand River agency, Dakota Territory, June 11, 1870, of steamer North Alabama, the above articles in good order and condition.

J. A. HEARN,
Brevet Major U. S. Army, Indian Agent.

TREASURY DEPARTMENT,
Second Auditor's Office, January 21, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH,
Second Auditor.

No. 6.

SIOUX CITY, IOWA, *October* 31, 1870.

UNITED STATES INDIAN DEPARTMENT
To NORTHWESTERN TRANSPORTATION COMPANY, DR.
Transportation Indian supplies as follows:

Destination.	Articles.	Weight.	Rate.	Amount.
		Pounds.		
Sioux City to Yankton agency	1,000 sacks flour....	100,000	$2 25	$2,250
Sioux City to Grand River agency ..	1,000 sacks flour....	100,000	6 25	6,250
				8,500

SIOUX CITY, IOWA, *October* 19, 1870.

Received of E. S. Parker, Commissioner Indian Affairs, on board the steamboat Meiner, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to the United States agent at Yankton agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, aceidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

1,000 sacks flour for Major J. M. Goodhue, United States Indian agent, Yankton agency, Dakota Territory; weight 100,000 pounds.

YANKTON AGENCY, *October* 22, 1870.

Received, Yankton agency, October 22, 1870, the above flour in good order.

J. M. GOODHUE,
Major United States Army and Indian Agent.

SIOUX CITY, IOWA, *October* 8, 1870.

Received of the Hon. E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Far West, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major J. A. Hearn, United States Indian agent at Grand River agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from Sioux City to Grand River, at ——— *per* 100 *pounds.*

1,000 sacks flour, weight 100,000 pounds.

Received the above 1,000 sacks flour in good order and condition.

J. A. HEARN,
Captain United States Army, Indian Agent.

OFFICE OF THE NORTHWEST TRANSPORTATION COMPANY,
Joab Lawrence, Pres't & Sup't. } (Sionx City and Fort Benton Line of Steamers,)
C. D. Woolworth, Sec'y. } *Sioux City, Iowa, November* 1, 1870.
Sam. De Bow, Gen'l Ag't. }

UNITED STATES

To C. D. WOOLWORTH, secretary Northwest Transportation Co., DR.

For transportation of Indian supplies from Sioux City to Grand River and Crow Creek agencies, as follows:

Destination.	Articles.	Weight.	Rate.	Amount.
		Pounds.		
Crow Creek agency.....	650 sacks flour.....	65,000	$4 25	$2,762 50
Grand River agency.....	2,000 sacks flour	200,000	6 25	12,500 00
Grand River agency.....	1,100 sacks flour	110,000	6 25	6,875 00
Grand River agency.....	41 cases tobacco, 9,845 lbs..			
	1 bale, 1 box m'd'se, 360 lbs.	190,379	6 25	11,898 68
	1,003 sacks bacon, 180,174 lbs.			
Total.....	.....	.....	.....	34,036 18

SIOUX CITY, IOWA, *October* 8, 1870.

Received of E. S. Parker, Commissioner Indian Affairs, on board the steamboat Huntsville, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain W. H. French, at Crow Creek agency (the dangers of river navigation, fire, explosion, and collision excepted) at the rate of, as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* —— *per* 100 *pounds.*

650 sacks flour, for Captain W. H. French, Crow Creek Agency, Dakota Territory. Weight, 65,000 pounds.

Received, Crow Creek agency, October 16, 1870, the above 650 bags of flour, in good order.

WM. H. FRENCH, JR.,
First Lieutenant U. S. Army, Indian Agent

SIOUX CITY, IOWA, *October* 8, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Huntsville, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major J. A. Hearn, at Grand River (the dangers of river navigation, fire, explosion, and collision excepted) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss, or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* —— *per* 100 *pounds.*

2,000 sacks flour for Major J. A. Hearn, United States agent, Grand River, Dakota Territory; weight 200,000 pounds.

Received at Grand River agency, Dakota Territory, October 24, 1870, of the steamboat Huntsville the above stores in good order and condition.

J. A. HEARN,
Captain United States Army, Indian Agent.

SIOUX CITY, IOWA, *October* 7, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Far West, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major J. A. Hearn, United States agent at Grand River agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

1,100 bags flour, for Major J. A. Hearn, United States agent, Grand River agency, Dakota Territory; weight 110,000 pounds.

Received at Grand River agency, Dakota Territory, October 24, 1870, the above stores in good order and condition.

J. A. HEARN,
Captain U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *October* 7, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Far West, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major J. A. Hearn, United States agent at Grand River agency, (the dangers of river navigation, fire, explosion, and collision excepted) at the rate of as per contract and charges upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* —— *per* 100 *pounds.*

Marks or numbers.	Articles.	Weights.
Major J. A. Hearn, United States Indian agent, Grand River agency, Dakota Territory.	41 cases tobacco	9,845
	1 bale and 1 box merchandise	360
	113 sacks bacon	180,174
		190,379

Received, at Grand River agency, Dakota Territory, October 24, 1870, the above stores, in good order and condition.

J. A. HEARN,
Captain United States Army, Indian agent.

OFFICE OF THE NORTHWEST TRANSPORTATION COMPANY,
Joab Lawrence, Pres't and Sup't. } (Sioux City and Fort Benton Line of Steamers,)
C. D. Woolworth, Sec'y.
Sam DeBow, Gen'l Ag't. } *Sioux City, Iowa, October* 29, 1870.

THE UNITED STATES
To C. D. WOOLWORTH, secretary Northwest Transportation Company, DR.

For transportation of Indian supplies from Sioux City to Indian agencies on Missouri River, as follows:

Destination.	Articles.	Weight.	Rate.	Amount.
Yankton agency	355 sacks bacon	70,388	$2 25	$1 583 73
Crow Creek agency	16 cases tobacco	3,820	4 25	162 35
Cheyenne agency	500 bags flour	50,000	5 25	2,625 00
Cheyenne agency	358 sacks bacon; 15 cases tobacco.	73,642	5 25	3,866 20
Total				8,237 28

SIOUX CITY, IOWA, *October* 17, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat North Alabama, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major J. M. Goodhue, United States agent at Yankton agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

Three hundred and fifty-five sacks of bacon, for Major J. M. Goodhue, United States Indian agent, Yankton agency; weight, 70,388 pounds.

YANKTON AGENCY, *October* 21, 1870.

Received the above 355 sacks bacon said to contain 70,388 pounds, in good order.
J. M. GOODHUE,
Major United States Army, Indian Agent.

SIOUX CITY, IOWA, *October* 5, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Ida Stockdale, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain W. H. French, at Crow Creek agency, (the dangers of river navigation, fire explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss, or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredation.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— to ———, at ———per 100 pounds.

16 cases tobacco for Captain Wm. H. French, United States Indian agent, Crow Creek; weight 3,820 pounds.
Received October 12, 1870.

W. H. FRENCH, JR.,
First Lieutenant United States Army, Indian Agent.

SIOUX CITY, IOWA, *October* 5, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Ida Stockdale, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, (the dangers of river navigation, fire, explosion, and collision, excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass, and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— to ———, at —— per 100 pounds.

500 bags flour for Major G. M. Randall; weight, 50,000 pounds.

CHEYENNE AGENCY, *October* 15, 1870.

Received in good order.

GEO. M. RANDALL,
Captain United States Army, Indian Agent.

SIOUX CITY, IOWA, *October* 5, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Ida Stockdale, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major G. M. Randall, at Cheyenne agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss, or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— to ———, at ——— per 100 pounds.

Marks or numbers.	Car.	Articles.	Weight.
			Pounds.
Major G. M. Randall, U. S. Indian Agent..	6076	119 sacks bacon.	
	3224	120 sacks bacon.	
	4900	119 sacks bacon.	
		358 sacks bacon.....	70,027
	3942	15 cases tobacco	3,615
			73,642

Received, Cheyenne agency, October 15, 1870, in good order.

GEO. M. RANDALL,
Captain U. S. Army, Indian Agent.

TREASURY DEPARTMENT,
Second Auditor's Office, January 21, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH, *Second Auditor.*

No. 7.

OFFICE OF THE NORTHWEST TRANSPORTATION COMPANY,
Joab Lawrence, Pres't and Sup't. } (Sioux City and Fort Benton Line of Steamers,)
C. D. Woolworth, Sec'y.
Sam. De Bow, Gen'l Ag't. } *Sioux City, Iowa, October* 8, 1870.

UNITED STATES
To C. D. WOOLWORTH, secretary Northwest Transportation Company, DR.

For transportation of Indian supplies, &c., from Sioux City, as follows:

Articles.	Destination.	Weight.	Rate.	Amount.
		Pounds.		
67 packages annuity goods	Breckenridge Landing	16,485	$2 25	$370 91
17 packages annuity goods	Ponca agency	5,250	2 25	118 12
15 boxes tobacco, 1 case merchandise	Yankton agency	4,000	.....	.....
187 barrels sugar, 92 boxes soap, 127 sacks coffee, 53 packages merchandise.	....do	84,698	.....	.....
823 sacks flour	....do	82,300	2 25	3,847 45
1,417 sacks flour	Whitestone agency	141,700	.....	.....
160 barrels sugar, 251 sacks coffee	....do	79,656	3 25	7,194 07
184 barrels sugar, 92 boxes soap, 53 packages merchandise.	Crow Creek agency	84,039	4 25	3,571 66
1,500 sacks flour	Cheyenne agency	150,000	.....	.....
682 sacks flour	....do	68,200	.....	.....
125 sacks coffee, 92 boxes soap, 182 barrels sugar, 93 packages merchandise.	....do	92,639	.....	.....
400 sacks flour	....do	40,000	5 25	18,419 05
2,591 sacks flour	Grand River	259,100	.....	.....
233 boxes soap, 5 boxes merchandise	....do	16,820	.....	.....
700 sacks flour	....do	70,000	.....	.....
449 barrels sugar, 315 sacks coffee, 149 packages merchandise.	....do	204,353	6 25	34,392 08
Total		1,395,240	.....	67,913 34

SIOUX CITY, IOWA, *September* 28, 1870.

Received of E. S. Parker, Commissioner Indian Affairs, on board the steamboat Miner, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to United States agent at Breckenridge Landing, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of contract and charges, upon the following conditions, viz:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass, and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ——— *at* ——— *per* 100 *pounds.*

Marks or numbers.	Car.	Articles.	Weights.
			Pounds.
Asa M. Janney, United States agent, Breckenridge Landing, Nebraska.	3000	11 cases merchandise 4 bales merchandise	2,875
	2386	12 bales merchandise 39 cases merchandise	13,510
	2910	1 bale merchandise	100
			16,485

Santee agency, 10th month 1st, 1870.—Received the above cases and bales.

ASA M. JANNEY,
United States Indian Agent.

SIOUX CITY, IOWA, *September* 28, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Miner, the following articles, in apparent good order, value and contents unknown, marked and numbered as in the margin, to be delivered to Major W. H. Hugo, United States agent at Ponca agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ——— *at* - — *per* 100 *pounds.*

Seven cases and 10 bales merchandise, for Major W. H. Hugo, United States agent, Ponca agency, Nebraska; weight, 5,250 pounds.

PONCA AGENCY, NEBRASKA, *September* 30, 1870.

Received the above-mentioned 7 cases and 10 bales in good order and condition.

WM. H. HUGO,
United States Army, Indian Agent.

SIOUX CITY, IOWA, *September* 28, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Miner, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to United States agent, at Yankton agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

Marks or numbers.	Cars.	Articles.	Weight.
Captain J. M. Goodhue, Yankton agency, D. T., U. S: Indian agent.	3610 2910	15 boxes tobacco ..... 1 box merchandise	3,610 390
			4,000

YANKTON AGENCY, *October* 1, 1870.

Received the above in good order.

J. M. GOODHUE,
Major U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *September* 20, 1870.

Received of E. S. Parker, Commissioner Indian Affairs, on board the steamboat Miner, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain J. M. Goodhue, Indian agent at Yankton agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove

furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from —— *to* ——, *at* —— *per* 100 *pounds.*

Marks or numbers.	Cars.	Articles.	Weight.
Capt. J. M. Goodhue, Yankton agency, D. T.	4918	75 bbls. sugar.	
	2620	23 bbls. sugar.	
	4270	80 bbls. sugar.	
		178 barrels, weighing...	43,643
	3658	92 boxs soap.	6,256
	3954	127 sacks coffee.	20,701
	4238	29 cases mdse.	
		18 bales mdse.	14,098
		6 box tobacco.	
			84,698

YANKTON AGENCY, D. T., *September* 24, 1870.

Received the above in good order.

J. M. GOODHUE,
Major U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *September* 28, 1870.

Received of E. S. Parker, Commissioner Indian Affairs, on board the steamboa Miner, the following articles, in apparent good order, value and contents unknown marked and numbered as in margin, to be delivered to United States agent at Yankton agency, (the dangers of river navigation, fire, explosion, and collision, excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes this risk of loss, or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from —— *to* ——, *at* —— *per* 100 *pounds.*

823 sacks flour, for Captain J. M. Goodhue, United States agent, Yankton agency, Dakota Territory; weight, 82,300 pounds.

YANKTON AGENCY, D. T., *October* 1, 1870.

Received the above in good order.

J. M. GOODHUE,
Major U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *September* 23, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Deer Lodge, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain D. W. C. Poole, Indian agent at Whetstone, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss, or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds,

and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

1,417 sacks flour, for Captain D. W. C. Poole, Whetstone agency, Dakota Territory. Weight, 141,700.

WHETSTONE AGENCY, DAKOTA AGENCY,
September 27, 1870.

Received the above-named goods in good order and condition.

DEWITT C. POOLE,
Captain United States Army, and Indian Agent.

SIOUX CITY, IOWA, *September* 23, 1870.

Received of E. S. Parker, Commissioner Indian Affairs, on board the steamboat Deer Lodge, the following articles in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Captain D. W. C. Poole, Indian agent at Whetstone agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

Marks or numbers.	Cars.	Articles.	Weight.
Captain D.W.C. Poole, Whetstone agency, D. T.	4376 4118	80 bbls. sugar. 80 bbls. sugar.	
		160	38,743
	6184 4022	125 sacks coffee 125 sacks coffee	40,913
			79,656

WHETSTONE AGENCY, D. T., *September* 27, 1870.

Received the above-named goods in good order and condition.

DEWITT C. POOLE,
Captain U. S. Army, and Indian Agent.

SIOUX CITY, IOWA, *September* 20, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Sioux City, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin; to be delivered to Captain W. H. French, Indian agent, at Crow Creek agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids; breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

Marks and numbers.	Cars.	Articles.	Weights.
Capt. W. H. French, Indian agent, Crow Creek, Dakota Territory.	5410	127 bags coffee	20,701
	3428	81 barrels sugar	43,106
	5974	81 barrels sugar	
	2620	22 barrels sugar	
	6658	92 boxes soap	6,440
	6009	17 bales blankets; 14 bales domestics; 5 boxes tobacco; 3 boxes axes; 14 boxes merchandise.	13,792
			84,039

Eight (8) bales blankets instead of seventeen, (17,) and nine (9) bales flannel.

September 26, received above freight in good order and condition.

WM. H. FRENCH, JR.,
First Lieutenant U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *September* 12, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Admiral Farragut, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to George M. Randall, Indian agent at Cheyenne agency, Dakota Territory, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove-furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-mentioned boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

1,500 bags flour, weight 150,000 pounds.

Received, Cheyenne Indian agency, September 26, 1870, the above 1,500 bags flour, in good order.

GEO. M. RANDALL,
Captain U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *September* 12, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Bertha, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to G. M. Randall, Indian agent at Cheyenne agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquors, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove-furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

682 bags flour, weight 68,200 pounds.

Received, Cheyenne Indian agency, September 26, 1870, the above 682 bags flour, in good order.

GEO. M. RANDALL,
Captain U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *September* 20, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Sioux City, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major G. M. Randall, Indian agent at Cheyenne agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove-furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— to ———, at ——— per 100 *pounds.*

Marks or numbers.	No. of car.	Articles.	Weights.
			Pounds.
Major G. M. Randall, Fort Sully, Dakota Territory.	5530	125 sacks coffee	20,875
	6558	92 boxes soap	6,440
	2620	27 barrels sugar	43,679
	4302	80 barrels sugar	
	2840	75 barrels sugar	
	4038	16 bales blankets	17,400
		21 bales sheetings	
		6 boxes tobacco	
		10 boxes axes	
		1 crate merchandise	
		5 boxes hats	
		12 boxes merchandise	
	2035	12 boxes merchandise	4,245
			92,639

SEPTEMBER 29.

Received the above goods, in good order and condition.

GEO. M. RANDALL,
Captain U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *September* 30, 1870.

Received of E. S. Parker, Commissioner Indian Affairs, on board the steamboat Sioux City, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major G. M. Randall, Indian agent, Cheyenne agency, (the danger of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowing thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— to ———, at ——— per 100 *pounds.*

400 sacks flour for Major G. M. Randall, Cheyenne agency, Dakota Territory; weight, 40,000 pounds.

SEPTEMBER 29.

Received the above in good order and condition.

GEO. M. RANDALL,
Captain United States Army, Indian Agent.

SIOUX CITY, IOWA, *September* 19, 1870.

Received of E. S. Parker, Commissioner Indian Affairs, on board the steamboat North Alabama, the following articles, in apparent good order, value and contents un-

known, marked and numbered as in margin, to be delivered to Major J. A. Hearn, at Grand River agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

2,591 sacks flour, weight 259,100 pounds.

Received at Grand River, Dakota Territory, September 29, 1870, the above Indian supplies, in good order.

J. A. HEARN,
Captain U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *September* 19, 1870.

Received of E. S. Parker, Commissioner Indian Affairs, on board the steamboat North Alabama, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major J. A. Hearn, Indian agent, Grand River agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss or damage or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* ——— *per* 100 *pounds.*

233 boxes soap, weight 16,490 pounds; 3 boxes merchandise, weight 330 pounds, for Major J. A. Hearn, Grand River, Dakota Territory.

Received at Grand River, Dakota Territory, September 29, 1870, the above Indian supplies, in good order.

J. A. HEARN,
Captain U. S. Army, Indian Agent.

SIOUX CITY, IOWA, *September* 16, 1870.

Received of E. S. Parker, Commissioner of Indian Affairs, on board the steamboat Huntsville, the following articles, in apparent good order, value and contents unknown, marked and numbered, as in margin, to be delivered to Major J. A. Hearn, Indian agent at Grand River agency, (the dangers of river navigation, fire, explosion, and collision excepted,) at the rate of, as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss, or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove castings, machinery, carriages, furniture, musical instruments of all kinds, and for furniture, delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* —— *per* 100 *pounds.*

700 sacks flour, for Major J. A. Hearn, Grand River agency, weight 70,000 pounds.

GRAND RIVER, DAKOTA TERRITORY,
October 2, 1870.

Received in good order and condition from steamer Huntsville the above Indian supplies.

J. A. HEARN,
Captain United States Army, Indian Agent.

SIOUX CITY, IOWA, *September* 16, 1870.

Received of E. S. Parker, Commissioner Indian Affairs, on board the steamboat Huntsville, the following articles, in apparent good order, value and contents unknown, marked and numbered as in margin, to be delivered to Major J. A. Hearn, Indian agent at Grand River agency, (the damages of river navigation, fire, explosion, and collision excepted,) at the rate of as per contract and charges, upon the following conditions:

That the owner, consignee, or shipper hereby assumes the risk of loss, or damage, or leakage of all kinds of liquids, breakage of marble, glass and glassware, or articles packed in glass, or for any injury to the hidden contents of packages, stoves, stove furniture, castings, machinery, carriages, furniture, musical instruments of all kinds, and for delays, accidents, or losses occasioned by providential causes, overpowering thieves, or Indian depredations.

It is agreed, and is part of the consideration of this contract, that the above-named boat shall have the privilege of lightening and reshipping these goods.

Through from ——— *to* ———, *at* —— *per* 100 *pounds.*

Marks or numbers.	Cars.	Articles.	Weights.
Major J. A. Hearn, Grand River, D. T.	6036	75 barrels sugar	116,596
	5600	99 barrels sugar	
	6434	75 barrels sugar	
	4170	75 barrels sugar	
	4990	50 barrels sugar	
	3972	75 barrels sugar	
		449	
	3740	67 sacks coffee	51,479
	3162	123 sacks coffee	
	2033	125 sacks coffee	
		315	
	2033	49 cases goods	16,072
		6 bales goods	
	381	50 cases merchandise	20,206
		43 bales merchandise	
		1 barrel hardware	
			204,353

GRAND RIVER AGENCY, D. T., *October* 2, 1870.

Received in good order and condition from steamer Huntsville the above Indian supplies.

J. A. HEARN,
Captain U. S. Army, Indian Agent.

Know all men by these presents:

That Charles D. Woolworth, secretary Northwest Transportation Company, as principal, and Joab Lawrence and Gholeson G. Russell as sureties, are firmly bound to the United States in the sum of fifty thousand dollars, the same to be well and truly paid to the Commissioner of Indian Affairs of the United States, or his successor in office.

The condition of the above obligation is as follows: That whereas the said bonded Charles D. Woolworth, secretary Northwest Transportation Company, has entered into a contract with the Commissioner of Indian Affairs, dated September 26, 1870, agreeing to transport certain Indian supplies for the year one thousand eight hundred and seventy. Now, in case said contract is well and truly filled as therein set forth, then this obligation to be null and void, otherwise to remain in full force and effect.

Witness our hands and seals the day and year above written.

CHARLES D. WOOLWORTH, [SEAL.]
Secretary Northwest Transportation Company.

Witnesses:
GEORGE K. HAZLETT.
JAMES P. CHARLES.

JOAB LAWRENCE. [SEAL.]

GHOLESON G. RUSSELL. [SEAL.]

Articles of Agreement

Made and entered into this 26th day of September, 1870, by and between E. S. Parker, Commissioner of Indian Affairs, for and on behalf of the United States of the first part, and the Northwest Transportation Company, by Charles D. Woolworth, its secretary, of Sioux City, Iowa, witnesseth:

That said parties have agreed, and do hereby covenent and agree, to and with each other, in the manner following, to wit: The Northwest Transportation Company agrees to transport from Sioux City, Iowa, to the following-named and described places, at the following-named and described rates, all the goods and supplies of the Indian Department for the year 1870, of whatsoever kind; and in case the river is so low that the freight cannot be delivered by boat, the said party of the second part agrees to transport said goods by wagons, to wit: From Sioux City, Iowa, to Ponca, Santee, and Yankton agencies, at two dollars and twenty-five cents per hundred pounds. From Sioux City to Brulé and Crow Creek agencies, at four dollars and twenty-five cents per hundred pounds. From Sioux City to Whetstone agency, at three dollars and twenty-five cents per hundred pounds. From Sioux City to Cheyenne agency, at five dollars and twenty-five cents per one hundred pounds. From Sioux City to Grand River, at six dollars and twenty-five cents per hundred pounds. From Sioux City to Fort Berthold agency, at seven dollars and fifty cents per hundred pounds.

In consideration of the faithful performance of this arrangement on the part of the party of the second part, they, or their representatives, shall be paid at the office of the Commissioner of Indian Affairs, at Washington, D. C., on the presentation of the receipted bills of lading, signed by the respective agents or their substitutes, as above enumerated.

In witness whereof the parties hereunto have hereto set their hands and seals the day and date above written.

E. S. PARKER,
Commissioner of Indian Affairs.

Signed in presence of
S. M. WINSHIP,
S. M. JONES.

CHARLES D. WOOLWORTH, [SEAL.]
Secretary Northwest Transportation Company.

TREASURY DEPARTMENT,
Second Auditor's Office, January 21, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH,
Second Auditor.

No 1.

JULY, 1870.

THE UNITED STATES

To JAMES W. BOSLER, DR.

1870.—For the following supplies furnished the Ponca Indians:

20,000 pounds of flour, at 6½ cents per pound	$1,300 00
863 pounds of tobacco, at 85 cents per pound	733 55
	2,033 55

Received, Ponca Agency, July, 1870, of J. W. Bosler, the following supplies:
20,000 pounds of flour, and 863 pounds of tobacco.

The above supplies received in accordance with instructions from the Commissioner Indian Affairs, by telegraph to J. W. Bosler, dated July 5, 1870.

WM. H. HUGO,
First Lieutenant United States Army, Indian Agent.

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH,
Second Auditor

No. 2.

JULY 7, 8, 10, 11, and 15, 1870.

THE UNITED STATES

To J. W. BOSLER, DR.

July 8, 1870.—To the following supplies furnished for the Indian service at the Whetstone agency, Dakota Territory, for Sioux Indians:

5,340 pounds soap, at 15 cents	$801 00
18,975 pounds coffee, at 28 cents	5,313 00
2,100 pounds tobacco, at 85 cents	1,785 00
32,685 pounds sugar, at 18 cents	5,883 30
189,200 pounds flour, at 6¼ cents	11,825 00
48,039 pounds bacon, at 25 cents	12,009 75
3,640 pounds salt, at 8 cents	291 20
	37,908 25

WHETSTONE AGENCY, D. T., *July* 8, 1870.

Received from J. W. Bosler the following articles of subsistence stores, viz:

	Pounds, net.
89 boxes soap	5,340
115 sacks coffee	18,862½
18 boxes tobacco	2,100
148 pounds sugar	32,685
1,892 sacks flour	189,200
270 sacks bacon	45,328
13 barrels salt	3,640

DEWITT C. POOLE,
Captain United States Army, Indian Agent.

Twenty-eight sacks of flour, unfit for issue to Indians, delivered by J. W. Bosler, and held in store subject to his order.

WHETSTONE, D. T., *July* 18, 1870.

Captain Poole being absent, error in several of the articles herein-mentioned, supposed to have occurred in deducting gross weight from net weight, as furnished per invoices from Mr. Bosler—Mr. Bosler claiming that nothing but *net* weights were furnished, making a difference of 112½ pounds coffee, 2,711 pounds bacon, to be added to this receipt.

S. F. ESTES, *Acting Agent.*

THE UNITED STATES

To J. W. BOSLER, DR.

July 10, 1870.—To the following supplies furnished for the Indian service at the Crow Creek agency, Dakota Territory, for the Sioux Indians:

24,088 pounds bacon, at 25 cents	$6,022 00
96,000 pounds flour, at 6¼ cents	6,000 00
15,204 pounds sugar, at 18 cents	2,736 72
7,590 pounds coffee, at 28 cents	2,125 20
1,920 pounds soap, at 15 cents	288 00
1,800 pounds salt, at 8 cents	144 00
1,015 pounds tobacco, at 85 cents	862 75
	$18,178 67

CROW CREEK AGENCY, D. T., *July* 10, 1870.

Received of J. W. Bosler, in accordance with instructions from the Department of Indian Affairs, dated at Washington, D. C., June 18, 1870, the following subsistence stores, viz:

	Pounds.
135 sacks bacon	24,088
67 barrels sugar	15,204
32 boxes soap	1,920
33 packages tobacco	1,015
960 sacks flour	96,000
46 sacks coffee	7,590
6 barrels salt	1,800

WM. H. FRENCH, JR.,
First Lieutenant, Brevet Captain U. S. A., United States Indian Agent.

THE UNITED STATES

TO J. W. BOSLER, DR.

July 7, 1870.—To the following supplies furnished for the Indian service at the Yankton agency, for the Yankton Sioux Indians:

96,000 pounds flour at 6½ cents	$6,240 00
23,869 pounds bacon at 25 cents	5,967 25
7,590 pounds coffee at 28 cents	2,125 20
15,765 pounds sugar at 18 cents	2,837 70
1,920 pounds salt at 8 cents	153 60
1,920 pounds soap at 15 cents	288 00
933 pounds tobacco at 85 cents	793 05
	18,404 80

YANKTON AGENCY, D. T., *July* 7, 1870.

Received of James W. Bosler the following subsistence stores, viz:

	Pounds.
Flour	96,000
Bacon	23,869
Coffee	7,590
Sugar	15,765
Salt	1,920
Soap	1,920
Tobacco	933

In compliance with instructions contained in letter dated, Department of the Intetior, Office of Indian Affairs, Washington, June 18, 1870.

J. M. GOODHUE,
Major U. S. Army, Indian Agent.

THE UNITED STATES

TO J. W. BOSLER, DR.

July 11, 1870.—To the following supplies furnished for the Indian service at the Cheyenne agency, for the Sioux Indians:

97,500 pounds flour at 6½ cents	$6,337 50
24,114 pounds bacon at 25 cents	6,028 50
16,587 pounds sugar at 18 cents	2,985 66
7,590 pounds coffee at 28 cents	2,125 20
1,122 pounds tobacco at 85 cents	953 70
1,800 pounds salt at 8 cents	144 00
1,920 pounds soap at 15 cents	288 00
	18,862 56

CHEYENNE AGENCY, D. T., *July* 11, 1870.

Received Cheyenne agency, July 11, 1870, of J. W. Bosler, the following subsistence supplies in accordance with instructions, dated "Department of the Interior, Office Indian Affairs, June 18, 1870," viz:

	Pounds.
Flour	97,500
Bacon	24,114
Sugar	16,587
Coffee	7,590
Tobacco	1,122
Salt	1,800
Soap	1,920

The above supplies are all in good order, and of good quality.

L. H. ROBERTS, *M. D.*,
Physician Cheyenne Agency, and Acting Indian Agent.

This is to certify that Dr. L. H. Roberts, physician to the Indian agency at this place, has been appointed by Brevet Major George M. Randall, Indian agent at this place, to act in his absence on official business at Washington, as Indian agent; that Brevet Major Randall is so absent at this date, and that Mr. J. W. Bosler has delivered

at this agency a large quantity of stores, which Doctor Roberts informs is in amount as stated above.

E. P. PEARSON, JR.,
Captain Seventeenth Infantry, Brevet Lieutenant Colonel U. S. Army,
Commanding Detachment.

[Special Orders No. 2.]

CHEYENNE AGENCY, D. T., *June* 25, 1870.

Doctor L. H. Roberts will attend to all duties appertaining to this agency, as Indian agent, during the temporary absence of Brevet Major George M. Randall, Indian agent, on official business at Washington, D. C.

GEO. M. RANDALL,
Captain and Brevet Major U. S. Army, Indian Agent.

A true copy:

W. BURNS,
First Lieutenant Seventeenth Infantry, Brevet Captain U. S. Army.

THE UNITED STATES

To J. W. BOSLER, DR.

July 15, 1870. To the following supplies furnished for the Indian service at the Grand River agency, D. T., for Sioux Indians:

213,000 pounds flour, at 6½ cents	$13,845 00
17,000 pounds coffee, at 28 cents	5,035 80
4,500 pounds soap, at 15 cents	675 00
39,356 pounds sugar, at 18 cents	7,084 08
2,560 pounds tobacco, at 85 cents	2,176 00
60,003 pounds bacon, at 25 cents	15,000 75
5,040 pounds salt, at 8 cents	403 20
Total	44,219 83

Received at Grand River agency, Dakota Territory, this 15th day of July, 1870, from J. W. Bosler, contractor, the following subsistence stores, viz:

Articles.	Quantity.	Condition.
	Pounds.	
Flour	213,000	Good.
Coffee	17,985	Good.
Soap	4,500	Good.
Sugar	39,356	Good.
Tobacco	2,560	Good.
Bacon	60,003	Good.
Salt	5,040	Good.

The above stores were received in compliance with letter of instruction from Hon. E. S. Parker, Commissioner of Indian Affairs, dated June 18, 1870.

J. A. HEARN,
Captain and Brevet Major U. S. Army, Indian Agent.

[Duplicate.]

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH, *Second Auditor.*

No. 3.

JULY 20, 1870.

THE UNITED STATES

To JAMES W. BOSLER, DR.

1870.—For 426,658 pounds of beef, net weight, furnished for Indians at the Whetstone agency, Dakota Territory, under contract dated June 17, 1870, at 13 cents per pound $55,465 54

WHETSTONE AGENCY, D. T., *July* 13, 1870.

Received from J. W. Bosler, 839 head of beef cattle, net weight, 426,658 pounds.

STEPHEN S. ESTES,
Acting Agent.

[Duplicate.]

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

I certify the following to be true copies of the originals filed in this office.

E. B. FRENCH,
Second Auditor.

No. 4.

JULY 23 and 27, 1870.

THE UNITED STATES

TO JAMES W. BOSLER, DR.

1870.—For 73,935 pounds of beef, net weight, furnished for Indians at the Crow Creek agency, Dakota Territory, at 13 cents per pound, as per contract dated June 17, 1870 ..... $9,611 55

Received at Crow Creek agency, Dakota Territory, this 23d day of July, 1870, of J. W. Bosler, 73,935 pounds of fresh beef, net weight.

WM. H. FRENCH, JR.,
Brevet Captain U. S. Army, Indian Agent.

THE UNITED STATES

TO JAMES W. BOSLER, DR.

1870.—For 234,150 pounds of beef, net weight, furnished for Indians at the Yankton agency, Dakota Territory, at 13 cents per pound, as per contract dated June 17, 1870 ..... $30,439 50

YANKTON AGENCY, D. T., *July* 27, 1870.

Received of J. W. Bosler, esq., 234,150 pounds, net weight, of good, merchantable beef, in compliance with instructions contained in letter dated Department of the Interior, Office of Indian Affairs, Washington, D. C., June 18, 1870.

J. M. GOODHUE,
Major U. S. Army, Indian Agent.

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH, *Second Auditor.*

No. 5.

JULY 29 and AUGUST 3, 1870.

THE UNITED STATES

TO JAMES W. BOSLER, DR.

1870.—For 164,951 pounds, net weight, of fresh beef, delivered at the Crow Creek agency, Dakota Territory, under contract dated June 17, 1870, at 13 cents per pound $21,443 63

Received at Crow Creek agency, Dakota Territory, this 3d day of August, 1870, of J. W. Bosler, 164,951 pounds, net weight, of fresh beef.

WM. H. FRENCH, JR.,
First Lieutenant, Brevet Captain U. S. Army, Indian Agent.

THE UNITED STATES

TO JAMES W. BOSLER, DR.

1870.—For 270,000 pounds, net weight, of fresh beef, delivered at the Cheyenne agency, Dakota Territory, under contract dated June 17, 1870, at 13 cents per pound $35,100 00

CHEYENNE AGENCY, D. T., *July* 29, 1870.

Received of J. W. Bosler 270,000 pounds, net, of good merchantable beef for Cheyenne Indian agency.

L. H. ROBERTS,
Acting Indian Agent.

[Special Orders No. 2.]

CHEYENNE AGENCY, D. T., *June* 25, 1870.

Dr. L. H. Roberts will attend to all duties appertaining to this agency as Indian agent, during the temporary absence of Brevet Major George M. Randall, Indian agent, on official business at Washington, D. C.

GEO. M. RANDALL,
Captain and Brevet Major U. S. Army, Indian Agent.

A true copy.

W. BURNS,
First Lieutenant Seventeenth Infantry, Brevet Captain U. S. Army,
Adjutant Detachment Seventeenth Infantry.

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH, *Second Auditor.*

No. 6.

JULY 24, and AUGUST 4 and 6, 1870.

THE UNITED STATES
To JAMES W. BOSLER, DR.

August 4 and 6, 1870—
For 730,713 pounds of fresh beef delivered at the Grand River agency, Dakota Territory, under contract of June 17, 1870, at 13 cents per pound... $94,992 69

Received at Grand River agency, Dakota Territory, this 4th day of August, 1870, from J. W. Bosler, contractor, the following subsistence stores, viz:

640,600 pounds fresh beef, net, in good condition.

The above stores were received in compliance with letter of instructions from Hon. E. S. Parker, Commissioner of Indian Affairs, dated June 18, 1870.

J. A. HEARN,
Captain and Brevet Major U. S. Army.

Received at Grand River agency, Dakota Territory, this 6th day of August, 1870, from J. W. Bosler, contractor, the following subsistence stores, viz:

90,113 pounds of fresh beef, net, in good condition.

The above stores were received in compliance with letter of instructions from Hon. E. S. Parker, Commissioner of Indian Affairs, dated June 18, 1870.

J. A. HEARN,
Captain and Brevet Major U. S. Army.

THE UNITED STATES
To JAMES W. BOSLER, DR.

1870.—For the following-named supplies delivered at the Crow Creek agency, Dakota Territory, under contract of June 17, 1870:

July 24.—30,000 pounds of flour, at 6½ cents per pound.....	$1,950 00
August 6.—51,060 pounds of fresh beef, net weight, at 13 cents per pound...	6,637 80
	8,587 80

Received at Crow Creek agency, Dakota Territory, this 6th day of August, 1870, of J. W. Bosler, 51,060 pounds of fresh beef.

WM. H. FRENCH, JR.,
First Lieutenant, Brevet Captain U. S. Army, Indian Agent.

Received at Crow Creek agency, Dakota Territory, this 24th day of July, 1870, of J. W. Bosler, 30,000 pounds of flour.

WM. H. FRENCH, JR.,
First Lieutenant and Brevet Captain U. S. Army, Indian Agent.

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH,
Second Auditor.

No. 7.

OCTOBER 8, 1870.

THE UNITED STATES (Indian Department)
To J. W. BOSLER, DR.

[Date blank.]—To 22,000 sacks flour, delivered at Sioux City, Iowa—2,200,000 pounds, at 3½ cents per pound..... $77,000

OFFICE OF THE NORTHWEST TRANSPORTATION COMPANY,
(Sioux City and Fort Benton Line of Steamers,)
Sioux City, Iowa, October 18, 1870.

Received of J. W. Bosler, 2,200,000 pounds (22,000 bags) flour, for transportation to the several Indian agencies on the Missouri River.

C. D. WOOLWORTH,
Secretary Northwest Transportation Company.

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH, *Second Auditor.*

No. 8.

OCTOBER 14, 1870.

THE UNITED STATES
To J. W. BOSLER, DR.

October 14, 1870.—For 530,733 pounds of bacon furnished for Indian service within the Dakota superintendency, as per bills of lading herewith, eight in number, at 18 cents per pound.....	$95,531 94
For amount paid Ezra Taylor for inspecting bacon, as per his account herewith.....	132 50
	95,664 44

SOUTH BRANCH STATION, CHICAGO AND NORTHWESTERN RAILWAY CO.,
Transfer Depot, Chicago, September 24, 1870.

Received, in apparent good order and condition, of Jno. L. Hancock, Chicago, for account and at the risk of whom it may concern, the following articles as here marked and described, to be delivered in like order and condition as addressed on the margin, or to his or their assigns or consignees, upon paying the freight and charges as noted below, the dangers of navigation excepted.

In witness whereof the said railway company hath affirmed to two bills of lading of this tenor and date, one of which being accomplished, the other to stand void:

205 sacks bacon, marked "Maj. J. N. Hearn, Grand River Agency, D. T.;" weight, 38,345 pounds.

T. C. HATCH, *Agent.*

SOUTH BRANCH STATION, CHICAGO AND NORTHWESTERN RAILWAY CO.,
Transfer Depot, Chicago, September 23, 1870.

Received, in apparent good order and condition, of Cragin & Co., Chicago, for account, and at the risk of whom it may concern, the following articles, as here marked and described, to be delivered in like order and condition as addressed on the margin,

or to his or their assigns or consignees, upon paying the freight and charges as noted below, the dangers of navigation excepted.

In witness whereof the said railway company hath affirmed to two bills of lading of this tenor and date, one of which being accomplished, the other to stand void.

270 sacks bacon, marked "Maj. J. N. Hearn, Grand River Agency, D. T.;" weight, 97,459 pounds.

T. C. HATCH, *Agent.*

SOUTH BRANCH STATION, CHICAGO AND NORTHWESTERN RAILWAY CO.,
Transfer Depot, Chicago, October 4, 1870.

Received, in apparent good order and condition, of John L. Hancock, Chicago, for account and at the risk of whom it may concern, the following articles as here marked and described, to be delivered in like order and condition as addressed on the margin, or to his or their assigns or consignees, upon paying the freight and charges as noted below, the dangers of navigation excepted.

In witness whereof the said railway company hath affirmed to two bills of lading of this tenor and date, one of which being accomplished, the other to stand void.

201 sacks bacon sides, marked "Maj. DeWitt Poole, Whetstone agency, D. T.;" weight, 39,749 pounds.

T. C. HATCH, *Agent.*

SOUTH BRANCH STATION, CHICAGO AND NORTHWESTERN RAILWAY CO.,
Transfer Depot, Chicago, September 26, 1870.

Received, in apparent good order and condition, of Cragin & Co., Chicago, for account and at the risk of whom it may concern, the following articles as here marked and described, to be delivered in like order and condition as addressed on the margin, or to his or their assigns or consignees, upon paying the freight and charges as noted below, the dangers of navigation excepted.

In witness whereof the said railway company hath affirmed to two bills of lading of this tenor and date, one of which being accomplished, the other to stand void.

228 sacks bacon, marked "Maj. J. N. Hearn, Grand River agency, D. T.;" weight 44,370 pounds.

T. C. HATCH, *Agent.*

SOUTH BRANCH STATION, CHICAGO AND NORTHWESTERN RAILWAY CO.,
Transfer Depot, Chicago, September 29, 1870.

Received, in apparent good order and condition, of John L. Hancock, Chicago, for account and at the risk of whom it may concern, the following articles, as here marked and described, to be delivered in like order and condition as addressed on the margin, or to his or their assigns or consignees, upon paying the freight and charges as noted below, the dangers of navigation excepted.

In witness whereof the said railway company hath affirmed to two bills of lading of this tenor and date, one of which being accomplished, the other to stand void.

358 sacks bacon, marked Major Geo. M. Randall, Cheyenne agency, D. T.; weight, 70,027 pounds.

T. C. HATCH, *Agent.*

SOUTH BRANCH STATION, CHICAGO AND NORTHWESTERN RAILWAY CO.,
Transfer Depot, Chicago, October 4, 1870.

Received, in apparent good order and condition, of John L. Hancock, Chicago, for account and at the risk of whom it may concern, the following articles, as here marked and described, to be delivered in like order and condition as addressed on the margin, or to his or their assigns or consignees, upon paying the freight and charges as noted below, the dangers of navigation excepted.

In witness whereof the said railway company hath affirmed to two bills of lading of this tenor and date, one of which being accomplished, the other to stand void.

355 sacks bacon, marked Captain W. H. French, jr., Crow Creek agency, D. T.; weight 70,007 pounds.

T. C. HATCH, *Agent.*

SOUTH BRANCH STATION, CHICAGO AND NORTHWESTERN RAILWAY CO.,
Transfer Depot, Chicago, October 1, 1870.

Received, in apparent good order and condition, of John L. Hancock, Chicago, for account and at the risk of whom it may concern, the following articles, as here marked and described, to be delivered in like order and condition as addressed on the margin, or to his or their assigns or consignees, upon paying the freight and charges as noted below, the dangers of navigation excepted.

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In witness whereof the said railway company hath affirmed to two bills of lading o this tenor and date, one of which being accomplished, the other to stand void.

517 sacks bacon, marked Major DeWitt Poole, Whetstone agency, D. T.; weight, 100,185 pounds.

T. C. HATCH, *Agent.*

SOUTH BRANCH STATION, CHICAGO AND NORTHWESTERN RAILWAY CO.,
Transfer Depot, Chicago, October 7, 1870.

Received, in apparent good order and condition, of John L. Hancock, Chicago, for account and at the risk of whom it may concern, the following articles, as here marked and described, to be delivered in like order and condition, as addressed on the margin, or to his or their assigns or consignees, upon paying the freight and charges as noted below, the dangers of navigation excepted.

In witness whereof the said railway company hath affirmed to two bills of lading of this tenor and date, one of which being accomplished, the other to stand void.

355 sacks bacon, marked Major J. M. Goodhue, Yankton agency, Dakota Territory; weight 70,388 pounds.

T. C. HATCH, *Agent.*

CHICAGO, *October* 10, 1870.

Mr. E. S. PARKER, U. S. Commissioner of Indian Affairs,
To EZRA TAYLOR, Provision Inspector, DR.

(Authorized by Chicago Board of Trade and Pork-packers' Association.)

For inspecting at Chicago, Illinois:

Sept. 29.	1,003 sacks clear-rib bacon sides, at 25 cents per 1,000	$45	00
Sept. 30.	358 sacks clear-rib bacon sides, at 25 cents per 1,000	17	50
Oct. 3, 5.	719 sacks clear-rib bacon sides, at 25 cents per 1,000	35	00
Oct. 5.	355 sacks clear-rib bacon sides, at 25 cents per 1,000	17	50
Oct. 7.	355 sacks clear-rib bacon sides, at 25 cents per 1,000	17	50
		132	50

No. 139.] CHICAGO, *September* 26, 1870.

I hereby certify to having examined all of lot 1,003 sacks clear rib bacon sides; branded Major J. A. Hearn, Grand River agency, D. T., contained in J. L. Hancock's house, Chicago, Illinois, with results as follows:

1,003 sacks clear rib bacon sides, weighing 180,174 pounds.

All sweet and in good order.

Marked, Major J. A. Hearn, Grand River agency, D. T., account E. S. Parker, Comsioner Indian Affairs.

EZRA TAYLOR,
Inspector Pork-Packers' Association.

Inspecting charges, $45.

No. 141.] CHICAGO, *September* 30, 1870.

I hereby certify to having examined all of lot 358 sacks clear rib bacon sides, branded Major Geo. M. Randall, Cheyenne agency, contained in J. L. Hancock's house, with results as follows:

358 sacks clear rib bacon sides, weighing 70,027 pounds.

All sweet and in good order.

Marked, Major Geo. M. Randall, Cheyenne agency, D. T., in account with E. S. Parker, United States Commissioner of Indian Affairs.

EZRA TAYLOR,
Inspector Pork-Packers' Association.

Inspection charges, $17 50.

No. 148.] CHICAGO, *October* 3 *and* 5, 1870.

I hereby certify to having examined all of lot 719 sacks clear rib bacon sides, branded Major De Witt C. Poole, Whetstone agency, D. T., contained in John L. Hancock's house, with result as follows:

719 sacks clear rib bacon sides, weighing 140,137 pounds.

All sweet and in good order. Consigned to Maj. De Witt C. Poole, Whetstone agency, D. T. Account E. S. Parker, United States Commissioner of Indian Affairs.

EZRA TAYLOR,
Inspector Pork-Packers' Association.

Inspection charges, $35.

No. 149.] CHICAGO, *October* 5, 1870.

I hereby certify to having examined all of lot 355 sacks clear rib bacon sides, branded Capt. W. H. French, jr., Crow Creek agency, contained in J. L. Hancock's house, with result as follows:

355 sacks clear rib bacon sides, weighing 70,007 pounds.

All sweet and in good order. Consigned to Capt. W. H. French, jr., Crow Creek agency, D. T. Account E. S. Parker, United States Commissioner of Indian Affairs.

EZRA TAYLOR,
Inspector Pork-Packers' Association.

Inspection charges, $17 50.

No. 150.] CHICAGO, *October* 7, 1870.

I hereby certify to having examined all of lot 355 sacks clear rib bacon sides, branded Major J. M. Goodhue, Yankton agency, D. T., contained in J. L. Hancock's house, with result as follows:

355 sacks clear rib bacon sides; weight, 70,388 pounds.

All sweet and in good order.

Consigned to Major J. M. Goodhue, Yankton, D. T., account of E. S. Parker, United States Commissioner Indian Affairs.

EZRA TAYLOR,
Inspector Pork-Packers' Association.

Inspection charges, $17 50.

WASHINGTON, D. C., *October* 14, 1870.

SIR: Inclosed please find account of bacon delivered to Indian Bureau, 530,733 lbs., at 18 cents, amounting to $95,531 94; also, inspection certificate of Ezra Taylor, and receipts of T. C. Hatch, agent Chicago and Northwestern Railway Company, for shipment of the same. Hatch's receipts, you will notice, are in name of John L. Hancock and Cragin & Co. These are the houses from which I purchased the bacon, and who attended to shipping the same for me; consequently the railroad company's receipts were made out in their names.

Have the amount paid to me in draft on New York.

Very respectfully,

J. W. BOSLER.

Hon. E. S. PARKER,
Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., October 19, 1870.

SIR: I am in receipt of your letter of the 18th instant, requesting to be informed whether Mr. Bosler furnished the bacon, for which an account was stated in his favor on the 14th instant, by contract, and whether the United States agreed to pay inspector's charges.

In reply I have to say, that the contract entered into with Mr. Bosler has this day been forwarded to the Second Comptroller for file in his office.

By the terms of the contract, the contractor was to deliver the bacon at Chicago, Illinois, and arrangements were made by this Bureau to have the supplies inspected at Government expense.

Very respectfully, your obedient servant,

H. R. CLUM, *Acting Commissioner.*

Hon. E. B. FRENCH,
Second Auditor Treasury, Washington, D. C.

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH, *Second Auditor.*

No. 9.

OCTOBER 23 and 31, and NOVEMBER 5, 1870.

UNITED STATES INDIAN BUREAU

To J. W. BOSLER, DR.

For 2,151 sacks flour, 215,100 pounds, at 3½ cents..... $7,528 50

WASHINGTON, D. C., *November* 5, 1870.

THE UNITED STATES

To J. W. BOSLER, DR.

1870—For 536,800 pounds beef furnished the Yankton Indians, at 6½ cents per pound, gross weight $34,892 00

YANKTON AGENCY, D. T., *October* 31, 1870.

Received of J. W. Bosler, esq., 536,800 pounds, gross weight of beef, on the hoof, in compliance with instructions contained in letter dated "Department of the Interior, Office of Indian Affairs," Washington, D. C., August 10, 1870.

J. M. GOODHUE,
Major United States Army, Indian Agent.

THE UNITED STATES

To JAMES BOSLER, DR.

1870—For 703 head of beef cattle delivered at the Whetstone agency, weighing 686,122 pounds, gross, at 6½ cents per pound..... $44,597 93

WHETSTONE, D. T., *October* 27, 1870.

Received from J. W. Bosler, 703 head of beef cattle on the hoof, weighing gross, 686,122 pounds, in compliance with instructions from honorable Commissioner of Indian Affairs, dated Washington, D. C., August 10, 1870.

DE WITT C. POOLE,
Captain U. S. Army, Indian Agent.

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH, *Second Auditor.*

No. 10.

NOVEMBER 1, 1870.

THE UNITED STATES,

To J. W. BOSLER, DR.

[Date blank.]—For 469,200 pounds of flour furnished for the Indian agencies on the Missouri River, at 3½ cents per pound..... $16,422 00

OFFICE OF THE NORTHWEST TRANSPORTATION COMPANY,

Joab Lawrence, Pres't and Sup't.
C. D. Woolworth, Secretary.
Sam. DeBow, General Agent.
} (Sioux City and Fort Benton Line of Steamers,)
Sioux City, Iowa, November 15, 1870.

Received of J. W. Bosler, for transportation to Indian agencies on Missouri River, 1,227 sacks flour, 122,700 pounds.

C. D. WOOLWORTH,
Secretary Northwest Transportation Company.

OFFICE OF THE NORTHWEST TRANSPORTATION COMPANY,

Joab Lawrence, Pres't and Sup't.
C. D. Woolworth, Secretary.
Sam. De Bow, General Agent.
} (Sioux City and Fort Benton Line of Steamers,)
Souix City, Iowa, November 1, 1870.

Received from J. W. Bosler, for transportation to the Indian agencies on the Missouri River, above this place, 5,616 sacks flour, 561,600 pounds.

C. D. WOOLWORTH,
Secretary Northwest Transportation Company.

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH, *Second Auditor.*

No. 11.

NOVEMBER 2 and 3, 1870.

THE UNITED STATES

To J. W. BOSLER, DR.

November 2, 1870.—To 300,000 pounds fresh beef, gross weight, delivered at Crow Creek agency, at 6½ cents	$19,500 00
November 3, 1870.—To 93,696 pounds beef, gross weight, delivered at Crow Creek agency, at 6½ cents per pound	6,090 24
(See receipts of Agent French.)	25,590 24

CROW CREEK AGENCY, D. T., *November* 2, 1870.

Received of J. W. Bosler, 300,000 pounds of fresh beef, gross weight.

WM. H. FRENCH, JR.,
First Lieutenant U. S. Army, Indian Agent.

CROW CREEK AGENCY, D. T., *November* 3, 1870.

Received of Mr. J. W. Bosler, 96 head of beef cattle, being 93,696 pounds, gross weight.

WM. H. FRENCH, JR.,
First Lieutenant U. S. Army, Indian Agent.

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH,
Second Auditor.

No. 12.

NOVEMBER 9, 10, 11, and 14, 1870.

THE UNITED STATES

To J. W. BOSLER, DR.

Nov. 14, 1870.—To 1,465,875 pounds beef, gross weight, delivered at Grand River Indian agency, at 6½ cents per pound	$92,281 87

(See receipt of agent, Wm. F. Cady.)

GRAND RIVER AGENCY, *November* 14, 1870.

Received this day of J. W. Bosler, esq., 1,465,975 pounds, gross weight, of beef, on the hoof, in compliance with instructions contained in a letter dated Department of the Interior, Office of Indian Affairs, Washington, D. C., August 10, 1870.

WM. F. CADY,
United States Indian Agent, Grand River Agency.

THE UNITED STATES

To J. W. BOSLER, DR.

November 10, 1870—To 414,960 pounds beef, gross weight, delivered at Crow Creek Indian agency, at 6½ cents per pound	$26,972 40

(See receipt of Agent French.)

CROW CREEK AGENCY, D. T., *November* 10, 1870.

Received of J. W. Bosler 414,960 pounds of fresh beef, gross weight.

WM. H. FRENCH, JR.,
First Lieutenant United States Army, Indian Agent.

THE UNITED STATES

To J. W. BOSLER, DR.

November 9, 1870—To 510,450 pounds beef, gross weight, delivered at the Cheyenne Indian agency, at 6½ cents per pound	$33,179 25

(See Agent Randall's receipt.)

Received of J. W. Bosler, at the Cheyenne agency, Dakota Territory, this 9th day of November, 1870, the following amount of subsistence, to wit: 498 head of beef cattle, 510,450 pounds, gross weight.

GEO. M. RANDALL,
Captain United States Army, Indian Agent.

TREASURY DEPARTMENT,
Second Auditor's Office, January 7, 1871.

I certify the foregoing to be true copies of the originals filed in this office.

E. B. FRENCH, *Second Auditor.*

ARGUMENT OF MR. WELSH.

WASHINGTON, D. C., *February* 15, 1871.

To the Sub-Committee of the Committee on Appropriations, charged with the investigation of wrong-doing in the Indian Office:

GENTLEMEN: The duty that devolves on me of summing up the voluminous and somewhat contradictory testimony in the case under consideration is easy, because the law bearing on the subject is clear—the leading facts are substantiated by documentary testimony, and the United States Government has decreed that the market value of merchandise and of transportation is to be ascertained "by advertising a sufficient time previously, for proposals respecting the same." You certainly have shown consideration to Commissioner Parker, by allowing him to be represented by counsel, by giving him ample time to prepare his case, by summoning at his instance interested witnesses, and by listening patiently to their testimony.

To avoid repetition, I will condense my "statement of misconduct in the Indian Office," that you forwarded to Commissioner Parker more than a month since:

First, by uniting charges 1, 2, 5, and 8.
Second, " charges 3 and 4.
Third, " charges 6 and 11.
Fourth, charge 9.
Fifth. charge 12.
Sixth. charges 7 and 10.

I am prepared to furnish proofs of the 13th charge; but it was deemed best to defer it, that the committee might report at this session of Congress.

First. The law of March 2, 1861, section 10, contains this clause: "No contract or purchase shall hereafter be made, unless the same be authorized by law or be under an appropriation adequate to its fulfillment, except in the War and Navy Departments, for clothing, subsistence, forage, fuel, quarters, or transportation, which, however, shall not exceed the necessities of the current year." It appears from the evidence that the Commissioner of Indian Affairs did, in violation of this law, purchase, on the 17th of June, 1870, beef, flour, bacon, coffee, sugar, tobacco, soap, and salt, for which he paid the sum of $395,248 37. Although the War and Navy Departments are authorized to purchase supplies for public exigencies requiring an immediate delivery of the article, yet the other Departments are expressly prohibited from making contracts or purchases unless authorized by law. The importance of this prohibition is most apparent, for if the under officers in the several governmental Departments, or if the heads of those Departments themselves were warranted in determining what are exigencies, and meeting them by large contracts at extravagant rates by reason of anticipating an appropriation, the finances of the Government would soon be hopelessly embarrassed.

Another restrictive clause will be found in the law of March 2, 1861, section 10, as follows:

"*And be it further enacted*, That all purchases and contracts for supplies or services in any of the Departments of the Government, except for personal services, when the public exigencies do not require the immediate delivery of the article or articles, or performance of the service, shall be made by advertising a sufficient time previously for proposals respecting the same. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract at the places and in the manner in which such articles are usually bought and sold or such services engaged between individuals."

It appears from the evidence that in the region of the Missouri River alone, one million forty-two thousand eight hundred and forty-six dollars and sixty-five cents were expended by the Commissioner of Indian Affairs for supplies and services under very private contracts, without advertising previously for proposals respecting the same. It seems hardly necessary to consider whether there was any exigency requiring immediate delivery of articles before July 15, 1870, when the appropriation bill became a law, as the Interior Department is expressly prohibited from meeting such an exigency, and this is well known at the Department, as is shown by the following extract from the testimony of ex-Secretary Cox, and by an extract from a letter from Secretary Delano:

"In emergencies where there was danger of an outbreak, or where there was danger

of starvation, I should regard it as within the power of the President to do what might be necessary to avoid an occurence of that kind. As for instance I remember a case in which the ——— Indians were supplied for a considerable period by the Army directly on the President's order, for the purpose of preventing destitution and starvation among them, where there was no other provision. And there has always been, as I have understood the action of the Indian Bureau, more or less of that kind of provision against temporary emergencies. * * * I simply want to say that a discretion of that kind had to be used occasionally, and I think it is within the discretionary power of the President at a time like that to save what he considers a calamity."

Secretary Delano, in his letter of January 25th, printed in the Congressional Globe of the 27th, says:

"An arrangement has been made with the Secretary of War to advance from subsistence stores immediate relief for Red Cloud and his confederates. This is done because the appropriation cannot be obtained in time to meet the urgent demand for assistance for these Indians; but the appropriation will enable us to reimburse the War Department and continue such assistance as may be necessary to preserve our present friendly relations with Red Cloud."

If in the case under consideration the Commissioner of Indian Affairs had applied to the President, he would undoubtedly have ordered the War Department to continue their supplies to these Indians, until they could be fed from appropriations made by Congress. These Indians had been fed by the Commissary Department for the year ending June 30, 1870, and all that Department needed was authority from the President to continue to feed them as hitherto. On the 27th of May, 1870, the Commissary General, by letter, advised the Commissioner of Indian Affairs that there would be surplus supplies of provisions beyond what was necessary to feed the Indians to June 30, and asked the Commissioner to instruct the Indian agents to receive such supplies as were contracted for. On June 1 Commissioner Parker issued the necessary order, but from his testimony it appears that he took no pains to ascertain the surplus stock that was likely to be furnished the agents under his instructions of June 1:

"Question. What means before the 17th of June did you take to ascertain the amount of surplus supplies which would be turned over to agents?

"Answer. I took none in particular that I am aware of. That letter of the Commissary General, which is printed, was the first intimation I had that there would be a surplus of stores."

As the Indian agents had been receiving their supplies from week to week from the Commissary Department, they were naturally and very properly urgent that adequate supplies should be placed within reach. On the 22d of June Captain Poole, the agent at Whetstone, learned at Sioux City that the Commissary Department had a surplus of 1,300 oxen which they desired to hand over to the Indian Department. He therefore telegraphed the Commissioner of Indian Affairs that he had a supply sufficient for three months at the Whetstone agency. This fact should have been ascertained at Washington long before, and directions given to have the surplus cattle distributed among the various agencies, which the contractor was bound to do under the existing obligation. This supply, with the stock on hand at the various agencies, would have sufficed until near the close of August, when supplies could have been ready if the usual means had been taken, as is indicated in the following extract from the testimony of Ex-Secretary Cox:

"The Indian Bureau has always been in the habit of making purchases, as I have understood it, when it was understood that the appropriation bill was prepared by the committee. They have made, if not direct contracts, they have made conditional contracts at different times, with the understanding that if the appropriation bill passed they could then call upon parties to act, in order to get them out speedily. That I remember having brought to my attention as having been the long-time practice among them, from the fact that when we began in March, 1869, there were arrangements already made for goods being purchased. I interfered and stopped some of these; I canceled contracts, and there was some trouble about it at the time, but it was then shown to me, and I think has been undisputably the fact that, in order to meet the times of transportation on the river and to get the goods out in time, there has been embarrassment constantly growing out of the fact of the lateness of the time of passing appropriations, and it has become the custom to make that kind of provisional arrangement that if the bill passed they would be required to furnish certain supplies; and if not, they would not."

As this so-called exigency had been known for a twelve-month, and as the absence of provisions is more alarming than a delay in providing new clothing, it is wholly unaccountable that an advertisement for bids was not made in the month of May, that the Texas cattle dealers might have been allowed to compete, and thus to have reduced the cost of cattle by saving the profits of the intermediate contractor. It is in evidence that the cattle to supply the first Bosler contract were purchased at Abilene, (in Nebraska,) a large market resorted to by cattle-drovers from Texas, and from

which oxen can be driven in twenty days to the Yankton or Whetstone agencies. The contract of June 17 shows that there was no public exigency requiring the immediate delivery of any large number of cattle, as the contractor was only bound to deliver one-third in July, and the remainder in August and September. The contract of August 10 is wholly unaccountable, and Commissioner Parker, on the 13th of July, wrote to Governor Burbank, the superintendent of Indian affairs in Dakota Territory, thus: "He (Captain Poole) should advise the Indians belonging to the Whetstone agency of the fact that all these cattle are intended for them, that they must last them six months at the least, and that care should be taken to prevent any of them from being lost or uselessly killed." Twenty-seven days after writing this letter, Commissioner Parker duplicates the contract of June 17 for beef at the same exorbitant price that he felt justified in paying before the appropriation bill passed; and he actually allowed this favored contractor to deliver some of the cattle as late as the 14th of November, a month after the cattle bought at $3 88, for delivery as needed, were due at all the reservations. The loss to the Government and the injury to the cause of Indian civilization by reason of the neglect to advertise for proposals will hereafter be shown. But before passing from this subject it may be well to refer to other violations of the law. In the case of a public exigency requiring immediate delivery of the article, the law says it "may be procured by open purchase or contract," while in this case lower bids were rejected, and assurances given that no purchases would be made until after the appropriation bill had become a law, when, at the same time, the Commissioner of Indian Affairs was privately negotiating with J. W. Bosler, as is shown by a certificate of the clerk of the returns office, certified to by the Secretary of the Interior, and hereto appended. The following law throws additional light upon those transactions with J. W. Bosler, for it appears, from another certificate, certified to by the Secretary of the Interior, and hereto appended, that the contract of June 17 with J. W. Bosler was not filed in the returns office until the 15th of July, and that the contract of August 10, for beef and flour, has not yet been filed in that office.

Payments to J. W. Bosler under contract of June 17	$395,248 37
Payments to J. W. Bosler under contract of August 10	361,464 19
Total	756,712 56

"JUNE 2, 1862. CHAP. 93.—AN ACT to prevent and punish fraud on the part of officers intrusted with making of contracts for the Government.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be the duty of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Interior, immediately after the passage of this act, to cause and require every contract made by them, severally, on behalf of the Government, or by their officers under them appointed to make such contracts, to be reduced to writing and signed by the contracting parties with their names at the end thereof, a copy of which shall be filed by the officer making and signing the said contract in the returns office of the Department of the Interior (hereafter established for that purpose) as soon after the contract is made as possible and within 30 days, together with all bids, offers, or proposals for the same; all the said copies and papers in relation to each contract to be attached together by a ribbon and seal, numbered in regular order numerically, according to the number of papers comprising the whole return.

"SEC. 2. *And be it further enacted*, That it shall be the further duty of the said officer, before making his return, according to the first section of this act, to affix to the same his affidavit in the following form, sworn to before some magistrate having authority to administer oaths: "I do solemnly swear (or affirm) that the copy of contract hereto annexed is an exact copy of a contract made by me personally with ———; that I made the same fairly, without any benefit or advantage to myself, or allowing any such benefit or advantage corruptly to the said ———, or any other person; and that the papers accompanying include all those relating to the said contract, as required by the statute in such case made and provided." And any officer convicted of falsely and corruptly swearing to such affidavit shall be subject to all the pains and penalties now by law inflicted for willful and corrupt perjury.

"SEC. 3. *And be it further enacted*, That any officer making contracts as aforesaid, and failing or neglecting to make returns of the same, according to the provisions of this act, unless from unavoidable accident, and not within his control, shall be deemed, in every case of such failure or neglect, to be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and be imprisoned for not more than 6 months, at the discretion of the court trying the same. (U. S. Statutes at Large, 12, 1859-'63.)

It further appears from the following testimony that a written offer of June the 9th 1870, from a thoroughly responsible contractor, who was at that time supplying the

Winnebago agency with beef, was on file in the Indian Office. This offer, dated two days before the proposal of Bosler, and upon which his contract was based, was never sent to the returns office, although it is ordered that "all bids, offers, or proposals" should be sent there:

"WASHINGTON, D. C., *February* 8, 1871.

"THOMAS E. MCGRAW sworn and examined.

"By Mr. CHIPMAN:

"Question. How and where are you employed?—Answer. I reside in Washington City; I am a first-class clerk in the Indian Bureau.

"Q Do you remember the original letter signed by John Finn, dated June 9, 1870, offering to furnish beef to the Indian Bureau?—A. Yes, sir.

"Q. Examine the letter now shown you, and see if it is the original letter.—A. Yes, sir; that is the letter.

"Q. Was it signed by John Finn in your presence?—A. It was written by me at his dictation, and signed by him in my presence.

"Q. The letter now shown you is the original letter, and was taken from the files of the Indian Department?—A. Yes, sir; and was written in the Department."

The letter was read, as follows:

"WASHINGTON CITY, D. C., *June* 9, 1870.

"SIR: I have the honor to state that I have a large number of American and Indian cattle, left over from my late contract at the Winnebago Indian agency, which I propose to sell to the Indian Department for the use of the Sioux Indians at the Whetstone agency, at the following prices, viz: American cattle, from 4 to 7 years old, at 6¼ cents per pound, gross weight; Texas or Indian cattle, at 4¼ cents per pound, gross weight; said cattle to be delivered at Whetstone agency or reservation, as may be required, until the next contract is awarded.

"I am, sir, very respectfully, your obedient servant,

"JOHN FINN.

"Hon. E. S. PARKER,
"*Commissioner of Indian Affairs.*"

It further appears that the contract for transportation, amounting to $179,247 55, entered into on the 26th day of September, 1870, was not sent to the returns office until the 16th day of December, 1870. The contract with J. W. Bosler for bacon, in September, 1870, was sent to the returns office on the 3d day of February, 1871.

Second. The following letter from the member of the Committee on Appropriations of the House of Representatives who was charged with the care of the Indian appropriation bill, shows the design of Congress in introducing section 3 into that bill:

"COMMITTEE ON APPROPRIATIONS,
"HOUSE OF REPRESENTATIVES,
"*July* 20, 1870.

"DEAR SIR: In answer to your note asking my interpretation of the following provision of the new Indian appropriation bill, viz: 'It shall be the duty of said commissioners to supervise all expenditures of money appropriated for the benefit of the Indians in the United States, and to inspect all goods purchased for said Indians, in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commissioners in making purchases of said goods,' I reply that it seems to me its meaning is on the surface. Congress desires that your commission shall oversee and advise in all contracts for, or purchases of, Indian goods; shall see that the articles bought are suitable, and the prices reasonable; that the kind and amount of goods contracted for are delivered; that annuities are properly paid; that presents are justly and judiciously given; in short, that you shall 'supervise all expenditures of money appropriated for the Indians.' This is expressly made your duty by the statute, and your board must fulfill it or resign. It makes it the duty, also, of the Indian Commissioner to consult your board in all purchases for the Indians. You do not expend the money, for that is the duty of the Commissioner. But you have a right to know of, and advise in, all expenditures, all receipts for goods, &c. In case of a difference of opinion between yourself and the officer charged with the disbursement, you can only advise and report to the Secretary the facts which induce your dissent. I do not think, however, in view of the earnest desire of the Secretary and the Commissioner of Indian Affairs for an honest and efficient administration of Indian affairs, that your board will have any difficulty in complying with the requirements of the provision in question.

"Respectfully,

"A. A. SARGENT.

"VINCENT COLYER, Esq.,
"*Secretary Board of Indian Commission.*"

Mr. Brunot, the president of the board of Indian commissioners, in his testimony, gives the following answers to questions put by the counsel of Commissioner Parker:

"Question. Was the question ever discussed among you whether the term 'goods' embraced everything for which there was to be an expenditure?—Answer. Yes, sir; I believe it was.

"Q. But did you discuss the meaning of the word 'goods,' as used in the law?—A. Yes; I think it probable that we did at the first meeting of the board or at its organization.

"Q. What was your determination at that time?—A. We came to the conclusion that it was intended to cover all the expenditures of the Indian Department.

"Q. For whatever purpose?—A. Yes. It was not for me or for our board to stand over the Commissioner of Indian Affairs, watching his movements, and demanding of him to come to us for the purpose of consulting us.

"Q. The language used by the act of July 15, 1870, is, that it shall be the duty of the commission to supervise all expenditures, &c. Did you take that to mean consistently with the duties which you owed to your private positions, or did you receive that duty as a public officer would, to the exclusion of your other responsibilities?—A. Not to the exclusion of all our other responsibilities. We had made very great sacrifices of our private affairs in order to perform this duty.

"Q. You did not feel yourselves acting under the obligation of an official oath; you were not paid?—A. We were not paid.

"Q. Your services were voluntary?—A. Yes, sir.

"Q. You recognized no pecuniary liability to the Government for your conduct?—A. No, sir.

"Q. There were, therefore, none of the responsibilities connected with your office that are thrown around officers appointed by law?—A. Much higher responsibilities."

It was admitted by the Commissioner of Indian Affairs and testified to by the president and secretary of the board of Indian commissioners, that said board was not consulted in the purchase of provisions; that it was not called upon to inspect them, or to supervise the expenditures of money for transportation. The board was only called on for such duties as it had performed before the passage of the law of July 15; therefore no effect was given to that law by the Commissioner of Indian Affairs. The board, before the passage of the law, say June 3, had advised the Commissioner of Indian Affairs of its readiness to act; three days after the passage of the law Commissioner Parker notified President Brunot that he would meet the commissioners in New York on the 21st of July, for consultation as to the best method of proceeding expeditiously in making the necessary Indian purchases. At that interview the importance of the new powers intended to have been conferred on the board became manifest. Mr. Colyer, the secretary of the board, testified as follows:

"Q. Has the Indian commission in any way acted under that section of the law?—A. Yes, sir.

"Q. To what extent?—A. In the matter of the purchase of annuity goods in New York on the 21st, 22d, and 23d of July.

"Q. What class of goods were they?—A. What is known as annuity goods—dry-goods, clothing, hats, shoes, blankets, cloaks, &c.

"Q. And did your board inspect all of these goods purchased since the passage of the last appropriation bill?—A. We inspected the great bulk of what was advertised for, but there were other goods afterward purchased as presents, and sent out to the Indian country, which we did not inspect.

"Q. Were you called upon to inspect them?—A. Not that I know of.

"Q. Do you keep the records of the board?—A. Yes, sir.

"Q. Would there have been a record of it if inspection had been made?—A. I think there would be. I should have heard of it. The presents that were purchased were purchased some little time after the commission had made their great purchases in the latter part of August.

"Q. Do you know how the prices and quality of the goods inspected compared with those bought without inspection?—A. The contrast was very marked. The method of advertising, under our superintendence, was changed from the old method. By the old method the proposals were worded that the bidding should conform to a specimen in the possession of the Department. Our committee on purchases conceived that that was a disadvantage to many of the manufacturers; that it gave the manufacturer of that particular article, of which there was a sample in the Indian Department, an advantage over other manufacturers, because those that bid had to have goods conforming to that particular sample. The committee changed this, and made it so that every merchant or manufacturer should bring in his own samples and his prices, and the committee could thus judge between the goods presented for their examination, and between the prices, and they purchased those which they thought best and cheapest for the Indians. The committee not only changed the mode of advertising, but took special pains that the advertisements should be in the papers longer than usual, and should be generally circulated. They extended the time for the advertisements, and also took

pains to see that the advertisements were cut out of papers and copies sent to the most prominent manufacturers and merchants. The committee also addressed circulars to the leading merchants and manufacturers.

"Q. What effect had that on the purchases?—A. It had the effect of making more men send in proposals. A better class of bidders were induced to compete; such men as A. T. Stewart, H. B. Claflin, and others. They sent in specimens, and informed us that it had not been their custom heretofore to compete for the contracts, as they had no probability of getting them, but that, as they saw there was likely to be fair dealing now, they were willing to take the trouble to send us specimens and prices.

"Q. What was the effect as to the quality and prices of the goods?—A. We purchased our goods at first hands. We bought our blankets from the manufacturer, Mr. Dobson, of Philadelphia. We also bought from H. B. Claflin & Co., and from the manufacturers, at first prices.

"Q. What was the result as to quality and prices?—A. The advantage was that we got much better goods at much lower prices."

Had the design of the act of Congress of July 15 been fully carried out, so that the course pursued in the purchase of annuity goods had been applied to all expenditures of money under that act, there would have been a thorough reformation in the Indian Office. The following facts from the testimony in this case indicate the mode of conducting purchases when not under the observation of the board of commissioners:

Commissioner Parker says, when speaking of purchases made by him a few days after he had ceased to consult the commissioners, "I gave an order to Buckley, Welling & Co., a house in New York dealing largely in Indian goods, for the goods which I proposed to send out to the Osages." * * * * * *

"Presents given to Indians who have been convened in council are generally intended for the chiefs and head men, and are intended to be of little better quality than those ordinarily supplied."

A sample of the blankets so purchased was shown to experts in the presence of the committee, and although $8 a pair was paid, yet the experts pronounced those blankets to be inferior in dye and texture, and worth from $1 10 to $1 15 less than the blankets purchased by the commissioners at $7. It is in evidence that the blankets purchased by Commissioner Parker at $8 were the same that had been rejected by the commissioners a few days before at $6 80. It also seems that the commissioners broke up the old Indian rings and combinations by which the Government had been so long defrauded. Mr. Thomas J. Buckley, of Buckley, Welling & Co., testified as follows:

"Q. State whether you made any arrangements with the manufacturers of blankets to bid for them.—A. We proposed an arrangement. I believe Mr. Dobson accepted it.

"Q. At whose instance did he back out; did you hear?—A. I have not heard Mr. Dobson say so. I understood it was Mr. Stuart who requested him to put in a bid for himself."

The reference is to Mr. George H. Stuart, the chairman of the purchasing committee of the board of Indian commissioners.

Commissioner Parker, in his letter to the Secretary of the Interior, dated January 12, 1871, says: "Respecting the allegation that the board of Indian commissioners were not consulted in the purchases made of beef and flour, I have only to say that the act authorizing such consultation and inspection passed on the 15th of July, 1870, while the contract complained of was made June 17, 1870, nearly a month preceding the passage of the act."

On the 24th of January Commissioner Parker, being sworn, gave the following answers to queries put by his counsel:

"Q. Did the matter come up in your mind as to whether the term 'goods,' used in the appropriation act approved July 15, 1870, embraced the matter of supplies generally; and if so, what interpretation did you give to the statute?—A. I have never had but one impression until recently on this subject, which was that the term 'goods' generally used in the appropriation act did not embrace what we call subsistence or provisions.

"Q. Do not the laws distinguish between the two; and in this same appropriation act do not these two items appear separately?—A. They appear separately as a general thing, and I suppose there is where I got my impression.

"Q. Did you feel that it was your official duty to consult the board of commissioners in regard to this matter of provisions or subsistence, and did the question come up in your mind as to whether it was your duty to consult them?—A. I did not regard it as my duty to consult them.

"Q. Was that the reason you did not consult them?—A. That was the only reason."

Commissioner Parker made the following replies to queries by Mr. Sargent, the chairman of the committee of investigation:

"Q. Do I understand you to say you think the words 'Indian goods' do not include flour, bacon, tobacco, coffee, and sugar?—A. My impression is, that in a reading of the law goods are made a separate item.

"Q. Where the law of 1869 provided that they should exercise joint control over the

disbursements of appropriations made by that act, did not that, in your judgment, include expenditures for cattle, flour, tobacco, and coffee?—A. Very likely it did, but the execution of that law, absolutely with such a construction, would be utterly impossible, for they would have to come to the Indian Office and supervise every disbursement made under the Indian bill.

"Q. Would it be impracticable in respect to the disbursement of large sums?—A. No; but if you were to carry out that construction literally, it would be impracticable.

"Q. Could it not be carried out substantially where immense contracts were made, like these you have been speaking of this evening?—A. Yes, sir.

"Q. By the act of 1869 it is provided that $25,000, or as much as may be necessary, is appropriated for the transportation, subsistence, and clerk-hire of said commissioners while engaged in that service. Is your construction that that amount was provided for transportation and subsistence in buying a few dry goods in New York or elsewhere?—A. No, sir."

Commissioner Parker estimates that the dry goods supervised by the commissioners cost from $350,000 to $400,000, while it is in evidence that in the region of the Missouri River $1,138,511 09 were expended without the supervision of the commission, and contracts are pending for $280,000 yet to be paid.

It is in evidence that on August 6, 1870, Durfee & Peck were paid $53,494 37 for supplies to Indians at Fort Berthold, on the Missouri River, a point to which freight was carried at two cents a pound until the end of August, under the advertised contract.

As this voucher was not the subject of discussion before the committee, it may be that there was some exigency like that of June 17, where the contractor felt justified in charging extravagant prices owing to the uncertainty of being paid. It would have been a satisfaction to tax-payers if that voucher had been supervised by Messrs. Stuart, Campbell, Dodge and Farwell, the committee of the Indian commission that is charged with that duty. Three-point blankets, at $17 50 a pair, sugar at 30 cents a pound, bacon at 40 cents, corn meal at 22 cents, and flour at $20 a sack, *seem rather high!* Tax-payers are very patient people, and Congress has manifested much forbearance with the Indian Office, but the time of reformation is approaching. Congress requested the President to give the board of unpaid commissioners, of his own selection, joint control, with the Secretary of the Interior, over Indian appropriations. No such controlling power was given; and at its next session Congress directed the Commissioner of Indian Affairs to call upon the board of unpaid commissioners to supervise all expenditures. Their mandate was not heeded. Now, by the action of the House, if concurred in by the Senate, payment cannot be made until vouchers are examined and approved by the board of commissioners. Surely the tax-payers will not be satisfied by anything short of this.

Third. Exorbitant prices paid for provisions and the consequent waste of the public money. In ascertaining the market value of supplies for the Indian Department there is no authority for being guided by the testimony of dealers when there were existing contracts made in conformity with legal requirements. It is in evidence that the Commissary Department was paying $4 20 per 100 pounds for cattle, to be delivered weekly to all those Indian reservations, at the expense and risk of the contractor. It is also in evidence that two cents per pound is a fair difference between contracts for the delivery of the whole herd immediately on its arrival, and compelling the contractor to keep the cattle at his own expense and risk, delivering them from time to time as needed. The bids for cattle opened September 12, give a market value somewhat unfair for the Government. Instead of being advertised for thirty days to elicit bids from first hands, intermediate dealers alone could make offers, as the advertisement was to be inserted for only nine days in Washington, and three to five days in the western cities. The time was, however, extended for a week by order of the Secretary of the Interior. There were seventeen bids for 7,140,000 pounds of cattle to be delivered monthly for nine months—the first delivery to be made from the 1st to the 15th of October. One bid was at 3¾ cents per pound, one at $3 88, and one at $3 90; one at $3 90 to $4 13; one at $3 93 to $4 37; one at $4 20, &c. As the bid at 3¾ cents was by a good man with good security, it affords legal testimony of the market value of cattle to be delivered on the reservations up the Missouri, monthly, as required. There is a striking correspondence between this price and two other existing contracts with the Indian Department, say Dr. Burleigh's for deliveries weekly at the Santee Sioux reservation at $7 22 net, or $3 61 on the hoof, and John Finn's contract for the delivery of beef to the Winnebago Indians, near the Missouri River, at $6 90, net, or $3 45 on the hoof. An allowance of one cent a pound for the care and risk of keeping cattle, being only half the rate testified to, brings the bid of 3¾ down to 2¾, the precise rate that Captain Poole saw in the contract for cattle delivered at the Whetstone reservation. There is a somewhat striking contrast between this price and 6½ cents for immediate delivery, as per contracts of Commissioner Parker, dated June 17 and August 10, the deliveries on which were made from the end of July to the 14th of November.

The existing contract for flour delivered on the Santee reservation was at $3 35 per sack delivered monthly. Three dollars and thirty cents was paid for delivery at the

Ponca reservation, and $2 15 per sack for delivery at Council Bluffs, on the Missouri River. The contract of Commissioner Parker with J. W. Bosler, of June 17th, was at $6 50 per sack. For salt 8 cents per pound, when an existing contract with Finn was at 2 cents per pound. For sugar made from molasses, 18 cents per pound; coffee, 28 cents; tobacco, 85 cents; bacon, 25 cents, and soap 15 cents.

The profit to the contractor may be fairly estimated as follows:

7,911,837 pounds of beef delivered, profit estimated at 3¾ cents per pound....	$296,693
$141,557 under July contract for flour, salt, &c., 40 per cent. profit.....	56,622
$100,950 for flour under contract of August 10, 33⅓ per cent. profit.....	33,650
Estimated profit on freight, as hereinafter stated	114,104
Estimated profit of J. W. Bosler and his associates, if he had any.....	501,069

It will be hardly necessary to estimate the profit made by Green & Wattles by furnishing groceries to the extent of $81,481 in New York, August 26; say, sugar made from molasses at 11½ cents, coffee 21½ cents, tobacco 65 cents. Private purchases were also made from others to the extent of $25,000 and more.

As Commissioner Parker attempted to justify the extravagant prices indicated in the contract of June 17 by reason of a possible delay in making payment, the following extract from the contracts of Burleigh & Finn, already referred to, is significant: "All articles of subsistence furnished must be of good quality, and subject to inspection and rejection by the agent of the ———. The right is reserved to increase or diminish the amount of supplies, at the discretion of the superintendent of Indian affairs for ———, also to terminate the contract that may be entered into on giving the contractor six weeks' notice. Payment shall be made by the superintendent of Indian affairs at ———, when funds are placed in his hands for that purpose; but in the event of the superintendent of Indian affairs being without funds, then payment to be made as soon after as funds may be received for that purpose." Commissioner Parker testified as follows:

"Q. Who was the commissary contractor?—A. His name, I have learned, is Fenlon.

"Q. What price was the War Department paying that commissary contractor at that time?—A. Four cents and forty-four one-hundredths.

"Q. To be delivered at the agencies?—A. Yes, sir.

"Q. Why did you pay 6½ cents when these commissary contractors were furnishing it at these agencies at 4.44?—A. No such offer was made to me. I got the impression from my daily intercourse with these people, that they did not want to supply any more at that rate; that they had lost money under their arrangement with the Commissary Department, and I had the impression that they would not do it.

"WASHINGTON, *January* 27, 1871.

"Major B. DUBARRY sworn and examined.

"To Mr. WELSH:

"I am a commissary of subsistence of the United States Army; I am on duty in the office of the Commissary General of Subsistence, as one of the assistants to the Commissary General of Subsistence.

"Question. State the price and number of cattle contracted for, to be delivered on the Missouri River, in the contract made June 18, 1869, which was to terminate on June 18, 1870.—Answer. I have here a copy of the contract made on the 18th of June, 1869. It was made with Edward Fenlon, at the rate of $4 44¾ per hundred pounds live weight.

"Q. Were the cattle to be kept at the contractor's risk and expense until needed, or were they to be delivered in bulk?—A. Their delivery was to commence on the 31st of July, 1869, and to continue until the number provided for by the contract was delivered, at specified rates per month, the rate being different for the different points at which they were to be delivered. The contract runs that the 'beef cattle provided for at the respective places named are required to be held by the contractor sufficiently near thereto that he may with certainty and at the rate and under the conditions above specified, deliver them weekly, semi-monthly, or monthly, as the officer or agent of subsistence of the Department may require.' The whole number comprised in this contract of the 18th of June was 9,075.

"Q. After the completion of that contract was any other contract made?—A. On the 6th of July, 1869, a supplementary contract was made with Edward Fenlon. The supplementary contract was for the same rate as the other and for the same number of cattle; it only made a change in the points of delivery from the first contract.

"Q. Then it is only a repetition of the first contract, changing the place of delivery?—A. Not exactly a repetition, because it does not repeat all that is in the first contract, but it refers to the first contract. Subsequently, a proposition was made by the con-

tractor, Edward Fenlon, to furnish any additional number of cattle that might be required at the five points named in the supplementary contract, (three points only being named in the original one,) at $4 20 per hundred pounds, gross weight, during the continuance of said contract—that is, up to June 30, 1870. That proposition was accepted by General Clark. The date of it was 21st of September, 1869. That was to extend up to 30th June, 1870, and was to embrace all the cattle delivered over and above the total of 9,075, provided for by the first contract.

"Q. Is there any limit as to the amount of cattle you could call for under the proposition of 21st September, 1869?—A. I find no limit assigned in it. The contractor agrees to furnish all the cattle required at $4 20 per hundred pounds."

(The papers referred to by the witness are annexed to the testimony.)

"Q. If the Commissioner of Indian Affairs had called on you for cattle before the 30th of June, 1870, could you have furnished him with cattle under that contract?—A. Yes, at those points. All what the contractor furnished in excess of 9,075 was to be furnished at $4 20 per hundred pounds, gross.

"Q. Did the Commissioner of Indian Affairs send to your office to ascertain what supplies would remain over on the 30th June, 1870, or what supplies it would be possible for you to give him?—A. I do not recollect of it.

"Q. Have you charge of the office here?—A. I have not charge of the office; but as assistant to the Commissary General I see pretty much everything that comes in. My province at that time was to see everything that came into the office. The papers pass through my hands, and I open and hand them to the chief, or distribute them, according to their nature."

General Cox, the then Secretary of the Interior, seemed to have been impressed with the belief that some legal arrangement had been made with the commissary contractor for temporary supplies, if they should be needed, and in his testimony he distinctly disavows having given authority to make the Bosler contract or any other contract without the warrant of law. Any one familiar with the routine of the Interior Department knows full well that *pro forma* letters, like that from Secretary Cox requesting military escorts, are signed on the representation of clerks without perusal. That letter, and the others relating thereto, were, as you know, placed in evidence after the testimony had closed. Instead of its being available to contradict the testimony of Secretary Cox, it shows a special consideration for this favored contractor, who alone, so far as it appears from the testimony, was allowed a military escort. Little consideration need be given to J. W. Bosler's apprehension of loss by the contract of $3 88, in which he is half interested, as he testified that he did not know the cost of the cattle being delivered under that contract.

Fourth, (No. 9 in statement.) On the 11th day of July, 1870, L. H. Roberts, M. D., acting Indian agent for the Cheyenne agency, receipted to J. W. Bosler for flour, bacon, sugar, coffee, tobacco, salt, and soap, giving the weights indicated in the bill of said Bosler. On the 29th of July he also receipted for 270,000 pounds, net, of good merchantable beef for Cheyenne Indian agency, equal to 540,000 pounds on the hoof. He testified that there were 450 oxen which he averaged at 1,200 pounds each, as is alleged, at the instance of an officer who rode through the herd. Roberts said, "I told him I was not competent to judge." Roberts was asked, "Did you ever send the certificate of Captain Irvine or any other officer on that subject?—A. No, sir.

"Q. Have you any such certificate in your possession?—A. No, sir.

"Q. You say you were not accustomed to estimating the weight of cattle; do you recollect the form of the receipt which you gave for these cattle?—A. I do not. I committed an error in not retaining a copy of the receipt.

"Q. Did you know the weight of these cattle at any other agency?—A. I did not."

The other testimony of Doctor Roberts is self-condemnatory, and no evidence of any kind was produced by him or by Commissioner Parker to verify these exceedingly loose vouchers. Doctor Roberts says that cattle were killed every Saturday. Therefore, if the large cattle-scales were out of order, as is alleged, he could have weighed quarters of beef on the scales that were used in weighing sugar, bacon, &c. Prairie fires are very unusual in July, and as nutritious grass superabounds in that region, it is hardly likely that the herders would stint cattle. On the 20th day of August, Captain George M. Randall, an Army officer of high standing, and the Indian agent at Cheyenne agency, notified Commissioner Parker that he had weighed a sufficient number of the cattle to ascertain that they averaged 934 pounds each, gross weight. The weight of the soap (as ascertained by weighing) corresponded with the bill, but the weight of all the other articles was short—say, tobacco 30 pounds, salt 120 pounds, coffee 1,155 pounds, bacon 1,770 pounds, sugar 1,405 pounds, and flour 3,120 pounds. This deficiency is ascertained by comparing the weights paid for with Captain Randall's certificate. He said in his letter of August 20th: "I shall take up the subsistence at the weights according to the inventory taken. No invoices were received from the contractor, and therefore I am unable to ascertain what amounts were received and receipted for. All the papers I have to show are the steamboat's bills of lading, which will not answer my purpose. If the memoradum receipts given by

Doctor Lorenzo H. Roberts have not been paid, I must respectfully request that they be withheld, and I be directed to furnish correct vouchers." An intelligent agent of high standing notifies the Commissioner of Indian Affairs that he will not allow his account to be charged with erroneous or fraudulent memorandum receipts given during his absence, as is known, on official duty. The Indian Department certifies this erroneous or fraudulent voucher for payment, and then does not notify the Second Auditor of the fraud or error, that it may be corrected before the next payment is made. The following question was asked Commissioner Parker:

"Was the Second Auditor ever notified of the receipt of a communication from Agent Randall of August 20, 1870?—A. Not by me."

The excess in the payment over the proper voucher given by the accredited agent, amounts to $2,473 20. It is more than probable that the same mode of obtaining vouchers was practiced elsewhere, possibly through error, as there were no invoices, and bills of lading give the gross weight, including packages. It further appears that the following excess of weight has been paid for beyond the quantity indicated in the contract:

Flour, 59,200 pounds; coffee, 3,700 pounds; tobacco, 1,843 pounds; sugar, 8,997 pounds; salt, 150 pounds; soap, 1,500 pounds; beef on the June 17th contract, 392,934 pounds; beef on the August 10th contract, 1,007,903 pounds.

It also appears that at the Whetstone agency, when the cattle were all weighed, one drove averaged 915 pounds, another 1,017 pounds. At Crow Creek one drove averaged 976 pounds, and at Cheyenne, when Captain Randall was present, 1,025 pounds. The average weight at other agencies cannot be ascertained, as, like Dr. Roberts's receipt, the number of cattle is not mentioned, therefore it is possible that some of the vouchers may resemble it in other particulars.

Fifth, (No. 12 in statement.) The law of March 2, 1861, chapter 84, section 10, disallows contracts for services in any of the departments of the Government, except for personal services, when the public exigencies do not require the immediate performance of the service, without previously advertising a sufficient time for proposals respecting the same. As this legal requirement was fulfilled by the Quartermaster General, and as he, by public advertisement and by specific contract, included all the Indian goods, all other testimony in regard to freight is irrelevant. Indian goods were sent up the river under these contracts prior to June 30, and the Indian Office ought to have availed of them thereafter, instead of making a private contract (September 26) in violation of one law, and keeping it back from the returns office until December 16, in violation of another law. It appears from the evidence that this private contract was arranged in New York in August last, between Charles D. Woolworth, secretary of the Northwest Transportation Company, and General Parker, the Commissioner of Indian Affairs. Woolworth testified that the company for which he was negotiating had contracted in the name of Hiram K. Hazlett, their clerk, with the Quartermaster General for the transportation of Indian goods from Chicago, via Sioux City, to all the points up the Missouri River. He also knew that George K. Hazlett had contracted with the Quartermaster General for the transportation of Indian goods from St. Louis, Sioux City, and intermediate points up the Missouri River, and that the Northwestern Transportation Company had become a party to the latter contract, by agreeing to carry the quartermaster's stores and Indian freight at fifteen per cent. less than the contract price. Charles D. Woolworth testified as follows:

"Q. Had you any talk with General Parker ever about carrying Indian goods under those contracts? A. No, sir.

"Q. When you made a bargain with him for specific work, did you notify him that there was already a contract for carrying Indian goods?—A. No, sir.

"Q. Are you not aware that Indian goods could have been shipped on either of those contracts?—A. Any Indian goods delivered to us at Chicago, I suppose, we should have been obliged to carry under that contract.

"Q. Then what is your understanding of these contracts as to time? When Indian goods are delivered to you on the 1st day of September at Chicago, you date it from their receipt at Chicago; and when delivered to you on the 1st day of September at Sioux City, you date it at Sioux City?—A. Yes, sir.

"Q. Then the date is from the time these goods are delivered to you as being ready for shipment?—A. Yes, sir. But they have got to give us ten days' notice. They cannot come to us with goods without notice.

"Q. But that ten days' notice could have been given ten days before the time of receiving the goods?—A. Yes, sir."

It thus appears that under existing contracts all Indian goods delivered to the transportation company in Chicago or Sioux City before the 31st day of August could have been carried at the minimum rates—say from Chicago at an average of $1 88, which sum, less 65 cents a hundred, the railroad freight from Chicago to Sioux City, gives an average of $1 23 from Sioux City to all the agencies from Yankton to Berthold. The average freight on the other contract from Sioux City to the several agencies is $1 33 per 100 pounds during August, and $2 60 during September. The freight

under the Chicago contract, from the 1st of September to the 31st of October, less the railroad charges, is equal to $3 11 from Sioux City to all the agencies. The private contract made by Commissioner Parker at New York, in August, averages, from Sioux City to all the reservations, $4 80½, but practically it equals nearly $5 20, as $179,247 55 were paid for the transportation of 3,281,498 pounds of freight. Of this sum $1,218 82 was paid on goods sent to Berthold in April, when the freight, under the contract of the quartermaster, that extended to Indian goods, was 2 cents a pound, while the Government paid 7½ cents a pound, by including it in the private contract of September 26. As it appeared by the books of the Second Auditor that the entire freight of $179,247 55 was paid to C. D. Woolworth, secretary, in care of J. W. Bosler, the drafts were examined in the United States Treasurer's office. They appear to have been indorsed by C. D. Woolworth, secretary, to the order of J. W. Bosler, and by him indorsed to the order of Jay Cooke & Co., New York. From the evidence of J. W. Bosler, it appears that he wrote the name of C. D. Woolworth, secretary, on the back of each of the notes, and it does not appear that he gave any intimation to the Treasury Department that he wrote Woolworth's name. He alleges, however, that he had a letter of authority, but he did not exhibit it, although C. D. Woolworth testified that he had given that authority. This strange transaction made it important that J. W. Bosler's account with Jay Cooke & Co., New York, should be investigated by the committee. It is in evidence, and from that account it appears, that the $179,247 55 were placed to the credit of J. W. Bosler, while the drafts in favor of the president and secretary of the Northwestern Transportation Company amount to $65,143 75, or 2 cents a pound on the freight shipped up the Missouri River, being about the average freight under the advertised contract—say to the 30th of September from Sioux City and the 31st of October from Chicago. Commissioner Parker, in his letter of January 12, to the Secretary of the Interior, which is in evidence, says:

"Respecting the transportation, to which reference is also made as being high, and, therefore, conclusive of fraud, I reply that nearly all the Indian freight, consisting of annuity goods and some other supplies, reach Sioux City in October, at a time when navigation on the Upper Missouri had nearly ceased on account of low water and the near approach of cold weather, and I made the very best terms I could with the most responsible parties running boats on the upper river to insure the certain delivery of the Indian freight. The prices paid, in my judgment, were reasonable, and will compare favorably with what has been paid in former years, and that paid by the Army for the fall months of the present year. It must be borne in mind that the season was late; all Indian freight was bound to be taken up to their respective destinations, or endless trouble would be the result of failure, and water transportation was cheaper than by land, though both were high."

It appears, however that most of the annuity goods and groceries, and a large quantity of flour, had actually been shipped before September 26, the date of the contract, and that J. W. Bosler was bound to deliver the bacon on or before the 20th of September. It should have been delivered at Sioux City in time to ship it at the average freight of $2 60 per hundred pounds. Flour ordered August 10, should have been delivered daring that month at Chicago, Sioux City, Council Bluffs, Omaha, and other points down to St. Louis, as the freight under the contract from Sioux City advanced more than 1¼ cents per pound in the next month.

Sixth, (Nos. 7 and 10 in statement.) It seems necessary, in conclusion, not only to consider the subjects embraced in Nos. 7 and 10, of the statement of misconduct in the Indian Office, but also to refer briefly to facts of a like nature that are in evidence.

"WASHINGTON, D. C., *February* 3, 1871.

"JOHN FINN sworn and examined.

"By Mr. SARGENT:

"Question. State your residence and occupation?—Answer. I reside in St. Louis; I am at present engaged in pork-packing; I am also a cattle-broker.

"Q. Do you know General Parker, Commissioner of Indian Affairs?—A. I do.

"Q. Did you in June last have any conversation with General Parker in his office, with reference to putting in a bid to furnish cattle for Indian purposes?—A. I did.

"Q. About what time was that conversation?—A. It was frequent in May, June, and July.

"Q. You spoke to him frequently about it in May, June, and July?—A. Yes, sir; I do not know the dates.

"Q. Did you make any proposition to him to furnish beef for these purposes?—A. I did.

"Q. Did you have any conversations on that subject about the time of the letting of the Bosler contract in June?—A. I did.

"Q. How near to the time of the letting of that contract?—A. The same day; I think the day before and the very day.

"Q. What did you propose to furnish him with beef for?—A. I offered him Texas

cattle at 4½ cents a pound, and American cattle at 6 or 6½ cents a pound, gross; I cannot say which.

"Q. Did you make any further offer to him in that connection?—A. I did; I told him I had cattle at the Winnebago agency, and that if he did not consider them worth 4¼ cents a pound, I would take less for them; that I wanted to sell them.

"Q. Had you a contract at that time to furnish cattle to any of the agencies; and if so, for how much and to what tribes?—A. I supplied the Winnebago agency for 7 cents, net, or 3½, gross.

"Q. Did you have cattle enough on hand to take a large contract on the Missouri River?—A. No; I could not fill a large contract with the cattle I had on hand, but I could fill any contract; I could get the cattle.

"Q. What reply did Commissioner Parker make to this proposition to furnish cattle at those rates?—A. He told me he had not any money appropriated by the Government to buy cattle; that if I would give him all the cattle I ever owned at half these rates, he could not take them, because he had no money appropriated for the purpose; that he could not let a contract.

"Q. Was anything said about the condition of the Indians or the necessity of furnishing beef to them?—A. Yes; I told him I had heard from the agent at Whetstone and from other reservations that the Indians were in great need of stock, and asked him if he was not going to buy them. He told me he would not do it. I asked him what he was going to do in regard to supplying these Indians. He said the Indians would protect themselves the same as they did previously; that they could take to the plains and subsist the best they could.

"Q. Did he refuse to accept your proposition?—A. He did.

"Q. On what day was this particular conversation that you allude to with reference to the time of making the Bosler contract?—A. I could not swear to that; I think it was the 16th or 17th of June.

"Q. With reference to the time of making the Bosler contract, was it on the day you heard the contract was made, or the day before?—A. It was the same day. I cannot swear positively to that. I know from other parties that he made a contract that day. I never saw the contract; I understood that it had been made.

"Q. How long after the contract was made did you hear of it?—A. I heard within two or three hours, that same afternoon.

"Q. Did you have the facilities for executing such a contract, the herders, &c.?—A. I did.

"Q. State to what extent you had such facilities at that time.—A. I refer to General Sherman, General Allen, chief quartermaster, and General Meyers for that.

"Q. State what facilities you had in the way of herders, buildings, &c., for filling such a contract.—A. I had the means and the money. I could fill any contract the Government could give me at that time.

"Q. Did you have men in your employ to do that business, at that time?—A. I had; I had horses and cattle at the agency, and I was able at that time to fill any contract the Government would give.

"Q. Was your contract for the Winnebagoes for a part of the year, or the whole year?—A. For the whole year, twelve months.

"By Mr. CHIPMAN:

"Q. State whether you feel unfriendly, or not, toward General Parker.—A. No, sir.

"Q. Have you never expressed any unfriendly feelings toward him?—A. I did on one occasion, last year. I thought he might as well have let me have the contract at 4½ cents, as Bosler at 6½. I thought I could fill a contract as well as Bosler. That is the only time I expressed anything in that way toward General Parker, to my knowledge.

"WASHINGTON, D. C., *February* 6, 1871.

"JOHN T. BALDWIN sworn and examined.

"By Mr. SARGENT:

"Question. State your residence and occupation.—Answer. I reside in Council Bluffs, Iowa. I am a kind of general trader in real estate, a miller, and other things.

"Q. Do you deal in any kind of merchandise?—A. No, sir.

"Q. Were you ever present at any conversation between Mr. Finn and the Commissioner of Indian Affairs, at the office of the latter, in Washington City; and if so, when was it?—A. I was present with Mr. Finn, I think, about the middle of June, 1870.

"Q. State what passed in that conversation between Mr. Finn and Mr. Parker in relation to a contract.—A. I think Mr. Finn asked Mr. Parker if he should continue to

furnish supplies to Indians after the 1st of July. Mr. Parker replied that he did not want him to continue. Mr. Finn asked him what he was going to do with the Indians, and how he would get provisions and supplies. Mr. Parker remarked that he could not make any arrangement for supplies until there was an appropriation by Congress; that the Indians would have to hunt, or to do as they had been doing before they were getting any supplies from the Government.

"Q. Was anything said by Mr. Finn with reference to a desire on his part to have another contract?—A. I do not recollect anything.

"Q. What was your object in going there?—A. I went in company with Mr. Finn to see if Mr. Parker did not want some flour for the Indians.

"Q. Did you make any proposition to Mr. Parker with reference to it?—A. I simply told Mr. Parker that I had been engaged in furnishing contractors with flour for quite a number of years, and that I would like to make a direct sale to him or to the Government in place of selling to the contractors.

"Q. What was his reply to that?—A. He remarked that he was not prepared to make any contract at that time with me for flour, but that as soon as the appropriation bill passed he would advertise in the Chicago and Omaha papers, and would send me a copy of the advertisement. I asked him where the letting would take place. He said he did not know, but that it would take place here or at Sioux City.

"Q. How soon thereafter did you hear of the Bosler contract being let for beef and flour?—A. I learned it through Mr. Finn some two or three days afterward. That was the first intimation that I had of it. I then saw Mr. Bosler about ten days afterward.

"Q. Did Mr. Bosler tell you that he had a contract?—A. Yes, sir.

"Q. Was that before the passage of the appropriation bill, which passed on 15th July?—A. It was before that. It was in the latter part of June that I saw Mr. Bosler.

"Q. Did you receive any copy of an advertisement from Mr. Parker after the appropriation bill passed?—A. No, sir; I did not.

"By Mr. WELSH:

"Q. Did you name any price for the flour to Mr. Parker?—A. No, sir.

"Q. At what rate were you prepared to furnish it then?—A. I would have been willing to have contracted for flour at about $2 50 a sack on the cars at Council Bluffs.

"Q. Or at the same price on the steamboat?—A. Yes.

"Q. What was the average price of flour at Council Bluffs in July, August, and September, 1870?—A. It ranged at about $2 25—from $2 25 to $2 50 per sack of ninety-eight pounds.

"Q. Is that a double or a single sack?—A. A single sack.

"Q. Do you know Mr. Hoffmeyer, of Council Bluffs?—A. Yes.

"Q. Do you know anything of a contract that he had with the Government to furnish flour, at $2 15?—A. No, sir; I am a partner of Mr. Hoffmeyer; I was aware of a sale of flour made at the mill; the sale ranged at from $2 to $2 75, according to the quality of the flour; he sold some 1,250 sacks to Mr. Bosler; most of it was sold at $2 75; that was in October.

"Q. Do you recollect a sale of flour at $2 15 a sack, bought on October 27 and paid for on November 29?—A. I recollect that."

The negotiation with Bosler referred to by Finn and Baldwin must have been going on at the time of their conversations with Commissioner Parker, as appears by a letter from J. W. Bosler, dated Carlisle, Pennsylvania, June 11, a certified copy of which is hereto appended. That letter should not have been separated from the contract of June 17, as it is appended to it in the returns office, and in fact forms part of the contract, being a description of the quality of the beef. The prices of every article correspond precisely with the contract, the beef being described as American cattle, at 6½ cents per pound, gross. The contract says "the beef is to be of good, merchantable quality, and to be delivered on foot; one-third, or thereabouts, to be delivered on or about the 15th of July; one-third on or about August 1, and the residue on or about the 1st of September, 1870."

It is somewhat significant that J. W. Bosler should have been released from his offer to furnish American cattle and allowed to substitute Texas cattle without any abatement in the price, although it is in evidence that there is a difference of two cents per pound in the market value in favor of American cattle. This contract was, in violation of law, kept in the Indian Office until July 15, when the appropriation bill became a law. It is deceptive in its appearance, as the beef is stated at so many pounds, net, while it is to be paid for per pound, gross, therefore the contract is for double the weight indicated. On the next day, June 18, the following instructions were sent from the office of Indian Affairs:

"You will receive from Mr. Bosler the supplies to be furnished under said arrangement; and should the quantity vary from the amount herein given in each or any case, either more or less, you will receipt to him accordingly; that is, you will give proper receipts for the amount of each article delivered, at the time of the delivery.

You will, also, make the necessary preparation to properly care for the supplies after they have been delivered.

"Very respectfully, your obedient servant,

"W. F. CADY,
"*Acting Commissioner.*

"Major J. M. GOODHUE,
"*Indian Agent, Yankton Agency, Dakota Territory.*
"Captain WILLIAM H. FRENCH,
"*Indian Agent, Crow Creek Agency, Dakota Territory.*
"Major G. M. RANDALL,
"*Indian Agent, Cheyenne Agency, Dakota Territory.*"

From these instructions, and in one case from subsequent instructions of a like tenor, the agents were constrained to receive 75,420 pounds of flour, sugar, coffee, soap, tobacco, and salt, beyond the weight indicated in the contract; also, 392,394 pounds of beef beyond the contract of June 17, and more than 1,000,000 pounds in excess of the contract of August 10. The agents were also compelled to relieve the contractor from his obligation to keep one-third of the cattle until August and one-third till September at his own expense. They were thus obliged to hire herders at the expense of the Government, and to assume the risk of stampeding and other casualties. Commissioner Parker testified on the 24th of January, as follows:

"Q. Did you send invoices or descriptions of the various kinds of goods, sugars, coffee, and other stores sent up to the various agencies, so as to enable them to examine as to weight, quality, &c.?—A. I did not send them personally. I gave instructions that it should be done.

"Q. Do you know that they were sent?—A. Not of my own knowledge.

"Q. Can you produce evidence that they were ever sent?—A. I presume I could bring from the office witnesses who would testify that they were put into the mails. It is a rule always to send copies of invoices to the consignee, and I am perfectly satisfied that they were sent; but as I did not do it myself, I cannot give it as a positive statement. I had returns from the agents sometimes stating that something was missing, showing that they had the invoices."

On the 3d of February the following communication was made to the committee:

"No invoices were sent from the office to agents of the supplies furnished under the June 17th contract by Mr. Bosler. The agents receipted to Mr. Bosler for what they received.

"Very respectfully, your obedient servant,

"E. S. PARKER, *Commissioner.*

"Hon. A. A. SARGENT, *House of Representatives.*"

As there was no description of the quality of the goods, or any account of the net weight, the agents were left at the mercy of the contractor, although the Commissioner of Indian Affairs says, "It is a rule always to send copies of invoices to the consignee." The contract of August 10th is as follows:

"DEPARTMENT OF THE INTERIOR,
"OFFICE INDIAN AFFAIRS,
"*August* 10, 1870.

"SIR: It being exceedingly doubtful whether, under any advertisement for supplying the Sioux of Dakota with beef and flour, they can be furnished in proper season to prevent a deficiency, I have to request that you will at once supply 1,500,000 pounds, net, more of beef, to be distributed at the various agencies on the Missouri River, in such amounts as shall be hereafter designated to you. Said beef will be paid for at the same rates per pound as is provided in your contract with the Indian Bureau, dated June 17, 1870. This beef must all be on the hoof, and of as good quality as was furnished under your contract, and must all be delivered at the several agencies on the Missouri River on or before the 15th day of October, 1870.

"You will also be pleased to collect for the Indian Bureau, for the use of the Sioux Indians of Dakota, from 2,000,000 to 3,000,000 pounds of good extra wheat flour, to be delivered in Sioux City, at as low rates as possible, which rates should not exceed 3½ cents per pound when delivered in Sioux City, ready for shipment by boat.

"Your accounts for beef will be settled in Washington, D. C., upon your presenting the receipts of the amounts received by the respective agents, who have this day been instructed to receive from you and receipt to you for the beef you may furnish under this order.

"The flour will be settled for in Washington, D. C., upon your presenting bills of lading from such transportation companies as may transport the same to the several agencies.

"Very respectfully, your obedient servant,

"E. S. PARKER, *Commissioner.*

"J. W. BOSLER, Esq., *Sioux City, Iowa.*"

The same plan of deceiving the eye by inserting half the number of pounds paid for was pursued as in the former contract; 703 of these oxen were forced upon Captain Poole at the Whetstone agency, although Commissioner Parker knew that he had a six months' supply, as appears by his letter of July 13, to Superintendent Burbank. Commissioner Parker allowed J. W. Bosler not only to deliver more than a million of pounds of cattle in excess of this contract, but also to delay the time of delivery beyond the period at which the cattle purchased at $3 88 cents were due. The order for the purchase of flour seems to have been without limit as to price or time of delivery, and it is not claimed that there was any exigency requiring immediate delivery. With the range of markets indicated in the two contracts for the transportation of Indian goods, this quantity of flour could have been had at short notice. John T. Baldwin testified that he would have furnished it at $2 50 a sack, and if bids had been solicited by advertisement in accordance with Commissioner Parker's promise to Mr. Baldwin, what is called Indian flour could have undoubtedly been procured at $2. This grade of flour is made not from wheat, but by grinding the boltings from superfine flour.

The charge of 6¼ cents a pound freight on flour to Grand River and 7½ to Berthold, instead of $1\frac{60}{100}$ and 2 cents, was the contract price, is rather hard on the Government and on the cause of Indian civilization.

Although the Bosler contract was sent on the following day to the agents, requiring them to receive all that was brought to their reservations, yet it appears that the Morrow contract of September 17 was not sent until December 2. This is significant, as J. W. Bosler had acquired half interest in the contract, and Captain Poole testified that the drovers expected to deliver all the nine months' supply at once to the agents, and that no provision for wintering cattle had been made by the contractor. I could have testified still more strongly to that fact from personal observation, as my presence alone checked the consummation of an immediate delivery. A brief reference to the history of this contract throws some additional light on this plan.

On the 27th day of August, 1870, Commissioner Parker advertised in the Washington papers for bids to furnish seven million one hundred and forty thousand pounds, gross weight, of beef cattle on the hoof, and a large quantity of bacon. The cattle to be delivered at the various Indian agencies on the Missouri River, one-ninth to be delivered from the 1st to the 15th of October, and one-ninth monthly thereafter, in such quantity as the respective agents shall require. The time of bidding was to cease on the 5th of September, at noon, and the contract then to be awarded. This would have allowed but a few days for advertisements in the western cities, and too short a time for bids, with proper security, to have been received from any distant point. It appears that J. W. Bosler bid 6½ cents for beef and 18¼ cents for bacon, but it does not appear in what manner the contract was to be allotted to the various bidders, whether by averaging the bids for beef and bacon, as has been quite customary, or by considering the beef and bacon as separate transactions. The former course seems the more likely, for although the bacon is deliverable at Chicago, and the beef at the Indian reservations, yet the bacon is also allotted to five agencies. From evidence, it appears that the Secretary of the Interior interfered, by directing the proposals under the advertisement to be extended seven days, say to September 12. By this extension of time, seventeen bids for beef were made, and it is in evidence, that after the extension, J. W. Bosler united with J. A. Morrow, of Omaha, in his bid of $3\frac{90}{100}$ per pound. It also appears in evidence, that J. McCormick, of Omaha, is a partner with J. A. Morrow, in the contract.

General William Meyers testified that John McCormick, of Omaha, sent to his office a bid by J E. Boyd, to be taken to the Indian Office on the last day that bids could be received. This bid was at 3.90 cents per pound, the same rate as the bid by Morrow, in which Bosler and McCormick were partners. On the morning of the 12th of September, the day the bids were to be opened, a telegram was received, signed by J. W. Bosler and J. A. Morrow, reducing the bid of $3 90 per 100 pounds for beef to $3 88, and the bid for bacon one-fourth of a cent per pound. When the bids were opened the contract was awarded to Joseph F. Gibbs, of St. Louis, his offer being 3¾ cents per pound. It is in evidence that his first-named surety is a responsible man. Gibbs was informed that the contract had been awarded to him, and on the 14th of September telegraphed thus: "I am compelled to decline my bid for furnishing beef to Indians, being unable to furnish required bonds," The natural inference is that he had been bought off by the next bidder, as is quite customary. The Indian Office seems to have quietly released the principal and his bondsmen, and awarded the contract, at an advance of 13 cents a hundred, to J. A. Morrow, J. W. Bosler having half interest in it. The control of this contract was most important to Bosler, for if it had been in the hands of others he would have been unable to force on the Government over one million pounds of beef in excess of his August contract at 6¼ cents per pound; and, if the beef under the Morrow contract had been delivered at the stipulated time, Bosler would also have been shut out from his late deliveries, which were made long after the time that had been agreed upon. If the scheme for immediate delivery that Captain Poole referred to in his testimony had not been thwarted, and the cattle had been delivered promptly,

there would have been a profit on the Morrow contract of eighty thousand dollars, if all the cattle cost the same as those delivered at Whetstone.

As it is the province of the Committee of Investigation to draw its own inferences from the testimony, and to form its own conclusions, I leave the subject with you after this hasty review of the case. It should be borne in mind that more than two hundred pages of closely-printed testimony were placed in my hands yesterday, with directions to furnish a written summary to-day. Allow me to thank you for your uniform courtesy toward one trained wholly in mercantile pursuits, and quite ignorant of legal forms and usages. I had supposed that the investigation would have been conducted by the committee; but when Commissioner Parker employed counsel to procure testimony, and to train and to question the witnesses, it became apparent that I must, to a certain extent, conduct the investigation or also employ counsel. The former course, although in most respects less advantageous to the case, seemed more kind, therefore I adopted it.

If, on examining the evidence, you find, as I believe you will, the wrong done to the Government and to the Indian to be much greater than it appeared to be in my letter to the Secretary of the Interior, I know you will not attribute it in any wise to skill in conducting the case, but to the development of malpractices that have become chronic. The unusual freedom from personalities during the progress of this long investigation, affords one pleasant reflection, although there is still much that is painful in the performance of this, one of the sterner duties of life. From your intelligent and earnest consideration of the case I feel confident that the cause of Indian civilization will be promoted, therefore the sole object that I had in revealing the alleged wrongs to the Secretary of the Interior will be accomplished.

WM. WELSH, *of Philadelphia.*

LETTER OF MR. PARKER.

MR. CHAIRMAN: In asking you to consider the suggestions submitted by my friend and counsel in this investigation, General Chipman, it is proper, perhaps, that I should say a word myself. I will not attempt to go over the testimony, as that has been done by my friend, nor could I do so with any satisfactisn to myself, or in any way to aid your committee, for I have not been able to attend the investigation, during its progress, and am not familiar enough with the facts of record to assist you in your examination of it. I do not know, either, that I can now add anything to what I have said under oath, in reply to questions asked me by the committee, and which I suppose were intended to cover the whole ground of this investigation. When I entered upon the discharge of the duties of my office, I knew how sensitive the public were with regard to the administration of our Indian affairs. I knew, too, the solicitude with which Congress has always regarded that Bureau of our Government service, and firmly resolved that I would administer the office to the b st of my ability, and in such a manner that no taint of dishonor, at least, should ever attach to my conduct. To what extent my ability has proved equal to the duties devolved upon me, it is not becoming for me to speak. I know that I have spared no pains, no sacrifice of personal convenience and pleasure, to discharge my whole duty faithfully. I do not claim that I have made no mistakes, for that is more, I think, than can well be claimed by any public officer; but, Mr. Chairman, I do say, and I speak it in as solemn a manner as I am capable, and to this extent I have already sworn, that I have never profited pecuniarly, or indeed otherwise, by any transaction in my official capacity while I have been serving as Commissioner of Indian Affairs. I cannot know in advance how you will regard the various matters which have been made the subject of your investigation, as they effect my personal honor and official integrity; but whether they are sufficiently explained by the facts in the record or not, no view which you may take of them can change the knowledge within my own breast. that I have never sought to defraud the Government out of one penny, or have knowingly lent my aid to others with that view. There is not to be found anywhere in connection with this trial—if I may speak of it as a trial—a single transaction about which I had at the time, or until Mr. Welsh published his letter of December last, the slightest suspicion that my conduct would be inquired into. All of my official acts now before your committee were performed in the usual routine of my official duties. I gave them no further thought afterward than such as would naturally come up in the mind of a public officer in the casual review of his past administration. When I was, in January, suddenly called upon to explain transactions of my office, six months previous, I could only rely for explanation upon such records as happened to remain in my office, and upon such facts as I could from other sources, bring to the attention of the committee. As to the effect of these records and facts, you are to be the judges, and I leave them with you in the full belief that you will weigh them well before you condemn my action. If human tes-

timony is to be believed, and if my sworn statements, as well as the sworn statements of others with whom I was suspected of being in complicity, are to be credited, I think I may safely leave the question of my personal honor in your hands. As to the wisdom of any particular act of mine into which you have been examining, of course your judgment and mine may differ, and as to this I can only rest upon the circumstances surrounding me at the time, and the facts in the record, tending to show whether I acted wisely or not.

You must admit, Mr. Chairman, that the matter is one of great moment to me, and while I have no right to ask at your hands any report other than that which may be the result of your own convictions, I think I have the right to ask that at the time you make it to the House of Representatives, you will also state all the material facts upon which your conclusions should rest. I do not shrink from any responsibility which I have incurred, or its just consequences, and I only ask that that body which ultimately determines upon the result of this investigation, shall have that full knowledge of my conduct which will enable them to form a correct judgment in a matter of such great importance to me.

E. S. PARKER.

Hon. A. A. SARGENT,
Chairman, &c.

REMARKS OF MR. CHIPMAN.

Mr. CHAIRMAN: In presenting to your committee what I shall desire to say with respect to the charges against my friend General Parker, it may not, perhaps, be improper to give the origin of this inquiry, although it may not be of much consequence in an examination of the merits of the charges themselves. On the 7th day of December last, Mr. William Welsh, a citizen of Philadelphia, addressed a letter to the Secretary of the Interior, which he caused to be published in the newspapers of this city, at or before the time it had reached the Secretary's eye. This letter contained no specific allegations of guilt against the Commissioner of Indian Affairs, and yet its statements were of such a character as to attract public attention; and on December 12, following, the matter was brought to the attention of the House of Representatives by Mr. Sargent of California, and the following resolution passed:

House Resolution, December 12, 1870.

"*Resolved*, That the Committee on Appropriations be directed to inquire and report to this House what effect, if any, has been given to the following provision of the act 'making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1871, and for other purposes,' namely: 'It shall be the duty of said board of Indian commissioners to supervise all expenditures of money appropriated for the benefit of Indians in the United States, and to inspect all goods purchased for said Indians in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commission in making purchases of such goods.' Also, to what amount moneys have been expended on goods purchased in disregard thereof; also, whether the contracts for the purchase of flour or beef cattle for the Indian tribes on the Missouri River have been corruptly or improvidently made, or for greater quantities than required by the service; also, to investigate the charges of fraud and improvidence against the Indian service made in the report of William Welsh, esq., to the Secretary of the Interior; also, whether any portion of the sum of $90,000 appropriated in said act for the Quapaw Indians has been paid to other parties or diverted from its intended use; and that they have power to report at any time, and send for persons and papers."

At the time Mr. Welsh's letter appeared, and these proceedings in the House of Representatives occurred, General Parker was absent in the Indian Territory, upon business connected with his Bureau. He returned in the early part of January, and, on the 12th of that month, addressed a letter to the Secretary in reply to Mr. Welsh.

Meanwhile, however, a sub-committee of the Committe on Appropriations, consisting of Messrs. Sargeant, Lawrence, and Beck, had been appointed to inquire into the matters contained in the House resolution, and on January 9, Mr. Welsh, in reply to what he styles "an official note" from the sub-committee, submitted thirteen charges, which I think it my duty here to state in full. They are as follows:

"STATEMENT OF MISCONDUCT IN THE INDIAN OFFICE.

"First. Extensive purchases of cattle, flour, groceries, &c., by private contract, about June 17, August 10, 1870, and at other times, in direct violation of a law of the United

States, which requires such supplies to be advertised for in the public newspapers before purchases are made.

"Second. Large purchases made nearly a month before the passage of the appropriation bill, and therefore without warrant of law, and to an extent not warranted by any exigency—the payments to one individual alone amounting to more than three hundred and thirty-five thousand dollars. The letters of June 18, 1870, from the Indian Office to Agent Poole and others, show conclusively that there was no exigency requiring large purchases, as one-third of the cattle were to be delivered about July 15, one-third August 1, and one-third September 1, 1870.

"Third. A violation of the appropriation bill passed July 15, 1870; section 3 making it the express duty of the Commissioner of Indian Affairs to consult the board of commissioners in making purchases of all goods to be paid for under said appropriation bill; large purchases of beef, flour, &c., having been made without the knowledge of said board of commissioners.

"Fourth. Section 3 of said appropriation bill makes it the duty of the board of Indian commissioners 'to supervise all expenditures of money appropriated for the benefit of the Indians in the United States, and to inspect all goods purchased for said Indians, in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commission, &c. This well-defined duty imposed on the Commissioner of Indian Affairs was only complied with in the supervision and inspection of dry goods, and wholly neglected in other and far more extensive and important expenditures of money.

"Fifth. Culpable neglect in not ascertaining by telegraph or otherwise how much beef and other supplies were likely to be furnished by contractors under the Commissary Department before making large purchases of beef, &c., as per contracts of June 17 and August 10, 1870.

"Sixth. Exorbitant prices paid for provisions about June 17 and August 10; six and one-half cents per pound being the contract price for Texas cattle on the hoof, to be received and receipted for by the agent immediately on the arrival of the herd. The Commissary Department was at that time supplying the agencies at 4.45 cents per pound, and a contract, when properly advertised, was subsequently made by the Indian Department at 3.88 cents per pound. In both cases the contractor was bound to keep the cattle at his own expense and risk, deliverable as required by the agent from time to time during the period of nine months. The contractor for the cattle at 6½ cents is also a partner in the contract at 3.88 cents. He and others in the cattle business admit that the cost and risk of keeping Texas oxen in that stormy region and near hostile Indians for delivery as needed, exceeds 1¼ cents per pound, which, deducted from the 4.45 and 3.88, make the purchase at 6½ cents for prompt delivery equal to an advance of 100 per cent. on the commissary's contract, and 150 per cent. on the contract made by the Indian Office in pursuance of law, after proper public advertisement. I was credibly informed, and believe, that the cattle delivered in November at 6½ cents a pound cost but 2¾ cents at some reservations, 2.85 cents at others, and 3 cents at the most remote. I am offered oxen in full supply for the next season at 2¾ cents a pound, delivered on the banks of the Missouri River, from June 15 to July 1, although the price of cattle has materially advanced in Texas since last spring. The best of the cattle, say 4,000 head, of the 3.88-cents contract, cost 3 cents a pound, because they were bought so late that they could not reach Grand River before the close of November. I was credibly informed, and believe, between two and three thousand cattle under the same contract, were very inferior to the others, and that some of them cost 2½ cents a pound, or less.

"Seventh. The following wrongful and censurable instructions to agents, dated Indian Office, June 18, 1870: 'If the quantity of any or all of the articles delivered should vary from the foregoing, either more or less, it will make no particular difference. You will give Mr. Bosler proper receipts for all the supplies furnished by him at the time of the delivery.' 'The foregoing instructions' notified the agents at Whetstone that one-third of the cattle would be delivered, each, about July 15, August 1, and September 1, 1870. Mr. Bosler notified the agent that he would thrust upon him about one thousand cattle by July 20. The agent remonstrated, as he had then nearly three months' supply on hand. A telegram from the honorable Commissioner of Indian Affairs, dated July 20, 1870, compelled him to receive from J. W. Bosler all the cattle he brought, say 839 head, in addition to the 1,200 already on hand at the agency. The agent reports that these additional cattle will cost him $600 per month for herders, in addition to stampeding and other casualties. As these letters of instructions show that the contractor might deliver in July, August, and September, a plea that the contract for supplies was made to meet an exigency has no foundation in fact; and the reason for this very peculiar clause became manifest on this, and especially on subsequent occasions, for deliveries of 6½-cent cattle were made in November, and attempts were made in the same month to force 7,000 additional oxen on the agents, contrary to contract.

"Eighth. The neglect to advertise for proposals to furnish cattle, immediately after

the passage of the appropriation bill, July 15, is not culpable, but seems to be something worse, when coupled with the fact that additional cattle, to the extent of more than $155,000, were purchased privately on or about August 20, and were allowed to be delivered as late as November 14, when, under the advertised contract, cattle were to be ready for delivery as early as the 15th of October, at 3.88 cents a pound.

"Ninth. Neglect in not notifying the Second Auditor of the receipt of a notification from Agent Randall, of Cheyenne, that his sub-agent had receipted for Texas cattle at twelve hundred pounds, instead of nine hundred and thirty-eight pounds, the actual weight, &c. Also, culpable remissness in paying large sums of money on vouchers from irresponsible persons, not officially known to the Department, said vouchers not giving the number of the cattle, or stating whether they had been weighed or estimated, and by whom, or, in the case of net weight of beef, whether the oxen had been killed, or how the estimate had been made.

"Tenth. Neglect in not sending a copy of the contract of September 17 to the various agents, as had been done with the private Bosler contract. The instructions of June 18, to receive without restriction, had not been revoked, but had been strengthened by the telegram of July 20, from Commissioner Parker, ordering Captain Poole to receive without limit. That there was a collusion in an attempt to defraud the Government is more than probable from the following reasons: 1. J. W. Bosler, the contractor at 6½ cents, is also a partner in the contract of September 17, at 3.88 cents, and he avers that Governor Carney, the representative of another ring, or combination of bidders, offered $40,000 if the bid of 3.88 was withdrawn. 2. A nine months' supply of oxen, say nearly 7,000 cattle, would not have been driven to the Missouri region in November if the contractors had expected to be held to their bargain. 3. No preparations were made by the contractors to keep the cattle, or to kill them and freeze the beef. That is, no hay was provided, no horses purchased, no herders hired, and no houses erected for protecting frozen beef. 4. A partially-successful attempt was made by the contractors, or their agents, to force these cattle on the Indian agents; and they would have been largely, or perhaps wholly successful, if I had not, when in Washington, demanded to see the contract, and was therefore prepared to caution the Indian agents. Before I reached Crow Creek some 400 of these cattle had been forced on an agent who had already resigned. He averred that he had given a temporary receipt under false representations. These new cattle caused his whole herd to stampede.

"Eleventh. Wastefulness of the public money in purchasing other articles, all from the same favored contractors; say bacon, (with the rib bones,) at 25 cents per pound; coffee at 28 cents per pound; common sugar, made from molasses, at 18 cents per pound; inferior tobacco at 85 cents per pound, and flour at 6½ cents per pound, delivered at the agencies. Also, in buying from the same person, a resident in Pennsylvania, 25,000 ninety-eight-pound sacks of second-quality flour, at $3 50 a sack, delivered at Sioux City, where the market price was $2 20, purchasing all privately from one person instead of advertising according to law, and not allowing bids of one thousand sacks or more, that persons living near the reservation might find a market for their products and manufactures. Wheat could have been contracted for at from 1 to 1½ cents per pound, and a more nutritious diet manufactured on the reservation, with existing machinery, at less than half the cost of the flour furnished.

"Twelfth. Exorbitant rates paid for freight up the Missouri River, by not encouraging or allowing competition.

"Thirteenth. Grievous wrongs to the Indian service by allowing peculiar facilities to a superintendent or superintendents, agent or agents, having strong political friends, by which the Government has been defrauded or the welfare of the Indians retarded.

"WM. WELSH.

"PHILADELPHIA, *January* 9, 1871."

To the charges General Parker replied as specifically as possible, in a communication dated January 13, as follows:

"WASHINGTON, D. C., *January* 13, 1871.

"DEAR SIR: I have the honor to acknowledge the receipt of your communication dated January 11, 1871, in which, by instructions of the Committee on Appropriations of the House of Representatives, you forward me, inclosed, a copy of a communication of William Welsh, esq., dated Philadelphia, January 9, 1871, and stating that you will receive any reply that I may be pleased to make.

"I do not understand, from your communication, that I am personally or officially called upon to answer before your committee for any misconduct in office, or that, beyond the accusations contained in the letter of Mr. Welsh and matters connected therewith, there is anything pertaining to my administration, as Commissioner of Indian Affairs, into which you propose an investigation. I address myself, therefore, at once to the charges made by Mr. Welsh.

"First. That I made extensive purchases of cattle, flour, groceries, &c., about June 17 and August 20, 1870, and at other times, in violation of law, I deny.

"Second. That I made large purchases a month before the passage of the appropriation bill, (of July last, I suppose he means,) without warrant of law, and not warranted by any exigency, I deny.

"Third. That I made purchases, in violation of section 3, appropriation act, approved July 15, 1870, I deny.

"Fourth. That I violated said section 3, by reason of matters contained in said charge, I deny.

"Fifth. That there was any culpable neglect, on my part, in not ascertaining the quantity of supplies likely to be furnished by the Commissary Department, before making purchases June 17 and August 20, 1870, I deny.

"Sixth. As to many of the allegations in charge sixth, I have no knowledge. That I purchased beef cattle in July and August, 1870, at prices greater than subsequently paid for beef cattle delivered under contract, is true. But my action in the matter was based upon the necessities and circumstances then surrounding me, which I will fully explain to the committee if it is desired.

"Seventh. That I issued any wrongful and censurable instructions to agents, relative to receiving supplies in July or August, 1870, or at any other time, as alleged, I deny. My instructions are to be found in the Office of Indian Affairs, and will be furnished, together with any explanation your committee may require.

"Eighth. That I was guilty, as charged, of any culpable neglect in the matter of advertising for proposals after the passage of the appropriation bill of July 15, 1870, I deny. As to purchases subsequently to the passage of the act, I will make full answer, whenever informed by the committee that such answer is desired.

"Ninth. That I was guilty of culpable neglect and remissness in failing to give proper notice to the Second Auditor in any matter whatever, or that I was so guilty in paying vouchers of any character, as charged, I deny.

"Tenth. That I was guilty of neglect in not sending a copy of the contract of September 17, 1870, to the various agents, as had been done with the contract of J. W. Bosler, or that there was any collusion between Mr. Bosler and myself, I deny. Whether 'there was collusion in an attempt to defraud the Government' between persons other than myself, as is by Mr. Welsh asserted to be probable, for reasons stated by him, I know not. But that I had knowledge of any such collusion, or had aught to do with it, if such attempt was made, I deny.

"Eleventh. That I was guilty of 'wastefulness of the public money in purchasing other articles from Mr. Bolster,' as alleged by Mr. Welsh, I deny. That I should have provided cracked wheat for the Indians instead of flour, is a matter of policy, in supplying these people, about which there may be honest difference of opinion, and I suppose I need suggest nothing further in reply to the charge that I preferred to furnish flour.

"Twelfth. That 'I paid exorbitant rates for freight up the Missouri river, by not encouraging or allowing competition,' I deny.

"Thirteenth. That I was guilty of 'grievous wrong to the Indian service by allowing peculiar facilities to a superintendent or superintendents, agent or agents, having strong political friends, by which the Government has been defrauded, or the welfare of the Indians retarded,' I deny.

"Your committee will observe, upon reading the charges numbered from one to thirteen inclusive, that in some cases they contain statements of facts of which I have no knowledge; that they abound in inferences of the person making them which do not necessarily follow from the facts themselves; that they cover a wide range of inquiry, not only into particular transactions, but the general policy of the Indian Office; that they are often vague and uncertain in allegations of facts, but of this I care little. There are substantial averments which concern me personally and officially, and all such I stand ready to answer.

"Your committee now have the charges and my reply.

"I suppose the just and proper course in such investigations will be pursued, and that the accuser will be called upon to make good his charges.

"To the extent of all knowledge in my possession I offer my assistance.

"I only ask to be permitted to be present when witnesses are called and have the privilege of cross-examination; to be furnished with a copy of the evidence, if consistent with your rules of procedure; and to be permitted to call witnesses myself to explain any matter deemed important where witnesses may be necessary.

"I have the honor to be, your obedient servant,

"E. S. PARKER.

"Hon. A. A. SARGENT,
"*Chairman Sub-Committee, &c., House of Representatives.*"

I think, Mr. Chairman, that no one who will take the trouble to read the record in this case will doubt the thoroughness of your investigation. Certainly, whatever of knowledge that persistent, patient, and searching inquiry could produce will be found here. The prosecutor, Mr. Welsh, has been denied no facility in any quarter, official or otherwise, which would lead to the discovery of any important fact connected with his

charges. He has had access to the files and records of all the departments and bureaus of the Government, and has used this privilege freely. He has even caused to be brought before the committee the private bank account of at least one person with whom he suspected General Parker may have been in collusion. And I do not doubt that the same zeal which led him into the examination of this bank account has also led him to make the same fruitless search with regard to the private bank account of General Parker elsewhere.

I believe I do not state more nor less than the truth, when I say that the committee, for the purposes of the investigation, proceeded upon the theory that the charges were true, and that it was its duty to establish their truth, if possible, leaving the accused to defend himself without the aid of the committee. No one can read carefully the examination of witnesses without perceiving the truth of this remark. I mention this, Mr. Chairman, with no view of complaining, but rather that no one shall say there was any dereliction of duty on the part of this committee. There is a theory in military prosecutions before courts-martial, that the judge advocate is counsel both for the accused and the Government. But this is impossible in practice, as I think it is impossible for any committee to investigate charges against individuals, with the prosecutor standing at their side, without itself becoming more or less the prosecutor.

But that duty of the committee is discharged. You are now to enter upon a consideration of the evidence as judges. You are to drop the character of investigators, and assume a higher function. To the committee as judges, then, I shall address myself.

The record in the case is a large one, the charges are somewhat numerous, and I do not find it possible to thoroughly analyze the evidence in any very brief space. I trust, therefore, I may be heard patiently through. Recurring to the resolution introduced into the House, as well as the charges preferred by Mr. Welsh, the basis of this prosecution, I find what contains the basis of inquiry. The House resolution directed inquiry into the following matters:

1. To inquire and report what effect, if any, has been given to the third section of the appropriation act approved July 15, 1870, which is as follows:

"And it shall be the duty of said commissioners (referring to the board of commissioners created by the act approved April 10, 1869) to supervise all expenditures of money appropriated for the benefit of Indians in the United States, and to inspect all goods purchased for said Indians, in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commissioners in making purchases of such goods."

2. As to what amount of moneys have been expended on goods purchased in disregard thereof.

3. Whether the contracts for the purchase of flour or beef cattle for the Indian tribes on the Missouri River have been corruptly or improvidently made, or for greater quantities than required for the service.

There are many things stated in the series of charges presented by Mr. Welsh upon which no proof has been adduced. I suppose I need only present those questions for consideration which seem to have been regarded as important by the committee, and upon which evidence is to be found in the record. Laying out of view, then, entirely for the present, the order in which the charges are presented, or matters of inquiry mentioned by the House resolution, I will endeavor to take up, as near as may be in order of time, the several official acts of the Commissioner of Indian Affairs of which complaint is made.

J. W. Bosler's contract, June, 1870.

First, then, as to the contract made on the 17th of June, 1870, with J. W. Bosler for the supply of beef, bacon, flour, coffee, sugar, salt, soap, and tobacco, to the various Indian agencies along the Missouri River, from the lowest or Yankton agency to the highest or Grand River agency. It is alleged that this contract was made in violation of the third section of the appropriation act approved July 15, 1870. But this allegation need not be considered, as the contract was made previously to the passage of the act. And if it should be said that, notwithstanding this fact, yet the supplies delivered under the contract should have been inspected by the board of commissioners where the delivery occurred after the passage of the appropriation act referred to, I answer that the supplies, except beef, were all delivered before the passage of the act. As to the beef I will reply further along.

It is also alleged that this contract was made in violation of law, in that the supplies or provisions embraced in it were not advertised for, and the contract was made in the absence of any exigency warranting it. The provision of law with regard to the making of contracts is as follows:

"All purchases and contracts for supplies or services in any of the departments of the Government, except for personal services, when the public exigencies do not require the immediate delivery of the article or articles, or performance of the service, shall be made by advertising a sufficient time previously for proposals respecting the

same. When immediate delivery or performance is required by the public exigency, the articles or services required may be procured by open purchase or contract at the places and in the manner in which such articles are usually bought and sold, or such services engaged between individuals." (Sec. 10, act March 2, 1861, 12 Stat., p. 220.)

It will be perceived that the same law requiring advertisments authorizes the making of contracts where an exigency exists. It then becomes a question only as to what constitutes an exigency. Now, I take the position, Mr. Chairman, that we are not bound to show an exigency to have existed. It is sufficient to show that the officer believed an exigency upon him and acted with reference to it; and unless it appears that the officer acted corruptly, we have no right to question his judgment in the premises. The administration of Indian affairs is peculiar to itself. Indeed, it can hardly be said to do violence to reason, by assuming that exigencies in the Indian service constantly arise, and that the Bureau of Indian Affairs could not well be managed if the strict letter of the law were pursued in all cases.

This question of exigency has much to do with the inquiry now before us; and that the theory of it here presented may be shown to be not new, I desire to refer to adjudicated cases in courts.

I call attention to the case of The United States *vs.* Speed, 8 Wall., 77.

This was a suit upon a contract made by Major Simonds, a commissary in the Army, for slaughtering hogs for the Army at Louisville, in 1864. No advertisements for bids or proposals were put out before making the contract.

The validity of the contract was afterward denied, and suit was brought in the Court of Claims, and judgment rendered in favor of the claimant.

The United States appealed to the Supreme Court, and at the trial, among other objections to recovery, the Assistant Attorney General plead the act of March 2, 1861, (12 Stat., 220,) and urged that the contract was not binding, because there was no advertisement for proposals.

The Supreme Court, by Mr. Justice Miller, says:

"But that statute, while requiring such advertisement as the general rule, invests the officer charged with the duty of procuring supplies or services with a discretion to dispense with the advertising, if the exigencies of the public service require immediate delivery or performance.

"It is too well settled to admit of dispute at this day, that where there is a discretion of this kind conferred upon an officer or board of officers, and a contract is made in which they have exercised that discretion, the validity of the contract cannot be made to depend on the degree of wisdom or skill which may have accompanied its exercise."

The learned justice cites Pha. and T. R. R. Co. *vs.* Stimpson, 14 Peters, 448; Martin *vs.* M—t, 12 Wheaton, 19; Royal British Bank *vs.* Turquand, 6 Ellis and Blackburn, 327; Reas *vs.* Reed, 1 Wheaton, 482; 25 English Law and Eq. R., 1 4.

I cite also V——— *vs.* Young, 11 Johnson, 158; Wilkes *vs.* ———, 7 Howard, 89; Gould *vs.* Hammond, 1 McAll, 235.

I cannot now stop to examine adjudicated cases. The law, however, is well settled, and no lawyer will dispute it, that where a discretion is devolved upon a public officer he is the sole judge of the facts which move him to the exercise of that discretion. No one at the time can question his judgment and *a fortiori* can no one afterward assume to say he acted unwisely.

But this case does not rest upon abstract principle unsupported by fact. Commissioner Parker did not make this contract without the strongest reason impelling him. It is in evidence that early in the spring, when the leading representatives of the Sioux Indians were at Washington, the importance of keeping ample supplies for those Indians along the Missouri River who were disposed to come in and submit themselves to the workings of the President's policy, which contemplates feeding rather than fighting the Indians, was fully discussed; and the faith of the nation was pledged, through its Executive, that there should be no failure on the part of the Government in carrying out its promises in this particular. An arrangement existed by which these Indians were being fed by the Commissary Department; but this arrangement was to conclude on the 30th of June, and the correspondence between the Interior Department and the War Department, in the latter part of May and the 1st of June, shows that beyond this time the Indian Bureau could not look to the Commissary Department for supplies.

See letter of Commissary General Eaton, May 27, 1870; letter of Commissioner Parker to General Eaton, June 1, 1870; letter of Commissioner Parker to Governor Burbank, superintendent of Indians for Dakota Territory, June 1, 1870; requisition of Lieutenant Woodson, acting commissary of subsistence at Whetstone agency, June 4, 1870; letter of Acting Commissary General of Subsistence Clarke, of Military Division of Missouri, to General Eaton, June 15, 1870; letter of General Eaton to the Secretary of War, June 8, 1870; letter of Adjutant General Townsend to the Secretary of the Interior, June 18, 1870.

In one of Governor Burbank's letters, (June 18,) he says:

"Allow me to call your attention to the statement of Major Hearn, that the flour,

bacon, sugar, and coffee will last only to July 1. You are well aware that we must feed or fight the Indians in this superintendency, and, by failing to have full supplies on hand, we furnish the disaffected with an argument, or pretext at least, to compel those who are disposed to be friendly to join them.

"I trust that you have the means at your command to send a full supply at once; but, if not, I hope that you may devise some means whereby subsistence can be kept on hand at this and all the other agencies."

Agent Hearn, from the Grand River agency, June 2, 1870, writes:

"I earnestly request that supplies be forwarded as soon as possible, as the deportment of the Indians deserves that the Government should promptly comply with the conditions of their treaty."

Again, July 1, Agent Hearn writes:

"We are entirely out of flour and bacon. * * * Many Indians are dissatisfied, and think the Government is going to stop feeding and clothing them, as their supply of provisions for the coming year has not arrived, and they are living on corn and beef. I respectfully request that supplies be forwarded as soon as possible, if they are not already on the way."

Agent Hearn writes from Grand River agency, July 31.

"I received provisions on the 15th of July, and the Indians were very well pleased, as a great number supposed that the Government was going to stop feeding them."

To go back in point of time, we find Captain French, agent at Crow Creek agency, writing as follows, June 7, 1870:

"SIR: I have the honor to report that the supply of bacon for the agency was exhausted on the last of March, and that I have but three weeks' issues of sugar and coffee on hand.

"The bacon is an indispensable article with the Indians, without which they cannot cook their flour, they having no baking powders, nor the means to purchase them with, and have to rely entirely upon grease to make their bread rise.

"The Lower Yanktonais at this place will be left in a very destitute condition should Congress fail to make an appropriation for their support. There is no game on their side of the Missouri River, and were they to hunt upon the territory of the Teton Sioux, they would be massacred by the hostile Indians.

"Very respectfully, your obedient servant,

"WILLIAM H. FRENCH, JR.,

"*First Lieutenant and Brevet Captain U. S. A., U. S. Indian Agent.*

"Hon. JOHN A. BURBANK,

"*Governor and ex-officio Superintendent Indian Affairs, Dakota Territory.*"

Governor Burbank, superintendent of Indian affairs, Dakota Territory, forwards a letter, June 11, in which he says:

"Allow me to most respectfully request that you take the proper steps to have a supply of the articles named sent at the earliest moment possible."

On the 15th of June Major Goodhue, the agent of the Yankton agency, writes to Commissioner Parker, submitting an estimate of provisions necessary for that agency, and remarks:

"I cannot too strongly urge upon the Department the importance of making provisions for the Indians of this agency, commencing with the month of July. All the rations provided for them under contract of last year will have been consumed by that time, and, in my judgment, if the Department should cease to feed them at this time, the Indians will scatter, many of them joining the disaffected Sioux, who are now committing depredations along the line of the Union Pacific Railroad. The Indians of the upper agencies are constantly taunting the Yakntons with a statement of the fact that they, (the Yanktons,) who are peaceable and friendly to the whites, have never received the presents and provisions from the Government that they, the hostile and unfriendly ones, have. If the Government should feed the Indians of the Whetstone, Cheyenne, Crow Creek, and Grand River agencies during the coming year, and withhold supplies from the Yanktons, it will result in the disintegration of the tribe, and have a strong tendency to alienate the friendly feeling now existing toward the Government. And if perchance there should be an uprising of the Sioux Nation this year, the Yanktons, smarting under what they deem the neglect of the Government, would in all probability join the hostiles. It is of the first importance, in view of the past and present efforts to advance these Indians in civilization, to pursue a policy that will induce them to remain contentedly on their reservation. If they become scattered and disaffected, in a very short time they will relapse into the same degree of wildness and barbarism that now characterizes their brothers of the Upper Missouri.

"In view of these facts I would earnestly invite the attention of the honorable Commissioner of Indian Affairs to the importance of making ample provision for subsisting the Yankton Indians."

I have given here but a small portion of the evidence tending to show the emergency under which the Commissioner made this contract in June.

In his examination before the committee, in reply to a question put by Mr. Beck, as follows: "What was the exigency that required a contract of that magnitude?" he replied: "The Sioux of Missouri, in 1870, had five agencies along the Missouri River, covering a distance up and down the river of, I suppose, between six and eight hundred miles. They had recently come into these agencies and located under the stipulations that they should be subsisted there according to their treaty with the peace commission. In the appropriation bill for the fiscal year ending June 30, 1870, was the appropriation of two millions in bulk for the use of the Indians generally. After the passage of the appropriation bill an arrangement was made with the Commissary Department of the Army to subsist the Indians wherever it was necessary, to be paid out of that two million fund. These Sioux Indians, while they were not really friendly, were not absolutely hostile. The appropriation bill was hanging here in Congress. On the 15th of June, two weeks before the arrangement with the Commissary Department was to terminate, we saw before us very serious difficulties. If the office took no action at all for continuing the supplies after the Commissary's had ceased, we feared the Indians would either leave the agencies or subsist themselves by depredating upon what they could find about them. We did not want them to leave the agencies, or enter into any kind of depredations. My idea was, that if we could subsist them for three months, we could in the ordinary routine of the office be able to make regular arrangements for subsisting them after that time. And in making this contract of the 17th of June, my intention was to cover the exigency which then seemed to arise for subsistence for about three months from the 1st of July."

I cannot believe that any one will seriously doubt the presence of an exigency at this time, or the duty of the Commissioner to meet it. On the contrary, he would have deserved censure not to have acted promptly and boldly to meet the impending danger; and as he has testified that he acted up to his best judgment, and with the best guides then within his reach, he ought not now to be called to answer for his conduct. But it may be said that he acted improvidently, and involved the Government in a wasteful expenditure of public funds. If he did this, but did it honestly, he ought not to be blamed. Yet it might be urged that he is unfit to hold the position he occupies on this account, admitting that he is not morally culpable. It then becomes necessary to notice whether he did, in fact, act improvidently; whether he paid too great a price for the supplies purchased by him. As this question of prices for supplies purchased runs through subsequent transactions, I will treat of that as a separate subject, and not stop here to discuss it. I cannot see that any question as to the magnitude of purchases can be made, except it shall be shown that they were greatly in excess of the requirements. An exigency is not to be judged of by the proportions. It may require a large outlay of money, or a small one, but the magnitude of the expenditure can have nothing to do with the exigency. It must be borne in mind that there were many thousands of these Indians; that the number varied. The policy of the Government was to invite all to come into the agencies who might choose to do so. To show this I quote from a letter of Major Randall dated April 9, 1870, in which he says:

"I have the honor to state that I am at present subsisting six thousand five hundred Indians at this agency, (Cheyenne,) and, at the least calculation, three thousand more than was expected here for subsistence, and they are daily arriving."

I might further quote from testimony to show that the prompt action of the Commissioner probably saved an outbreak, but I do not see that question will be made now of the fact that he wisely met the emergency, except as to the means by which he met it.

PURCHASE OF BEEF FROM J. W. BOSLER.

There is, perhaps, more question made as to the price paid for beef than any other item of purchase inquired into by your committee, and as the amount of beef in quantity and in value was quite large, I deem it important to examine at some length the testimony upon this point.

There were but two purchases of beef about which question is made—one of June 17, 1870, by contract with J. W. Bosler, at six and one-half cents a pound, gross; and the other by an extension of that contract, dated August 10, 1870. I quote from the Commissioner's testimony with regard to prices, (p. 19:)

"Q. You speak of having inquired; what means did you take on the 17th of June or thereabouts, to ascertain the lowest prices at which cattle could be furnished?—A. For several weeks previous to the 17th of June, I had been in the habit of talking almost daily with parties visiting my office, upon the subject of whether articles of subsistence could be had for an emergency in the region of these agencies, and, in my own mind, I had come to some conclusion as to what we would have had to pay, in a sudden emergency, for these articles of supply. The only means I could take was conversation with parties who were familiar with the country, and who were dealing in cattle."

There was at the time a contract in existence with the Commissary Department, by which beef was being snpplied to these agencies and to the Commissary Department at 4.44 cents gross. That contract had been let the year previous, and ran during the years 1869–'70, and expired June 30, 1870; but, as we have seen, the arrangement by which the Indian Department could be supplied under that contract expired at that time, and could not be continued. I quote from the Commissioner's testimony, (p. 25,):

"Q. What price was the War Department paying that commissary contractor at that time?—A. Four and forty-four hundredth cents.

"Q. To be delivered at the agencies?—A. Yes, sir.

"Q. Why did you pay 6½ cents when these commissary contractors were furnishing it at these agencies at 4.44?—A. No such offer was made to me. I got the impression from my daily intercourse with these people, that they did not want to supply any more at that rate; that they had lost money under their arrangement with the Commissary Department, and I had the impression that they would not do it.

"Q. Did you make any effort to ascertain whether or not you could have continued to have received supplies during this contingency that occurred at 4.44 or at the rates at which the Commissary Department had been supplied?—A. I talked with the Commissary General about it.

"Q. Who was he?—A. General Eaton. I had frequent conversations with him."

I have no doubt that this commissary contract has been put in evidence for the purpose of instituting a comparison between the price paid under it and that paid by Commissioner Parker, the difference being a trifle over two cents a pound. The Commissioner doubtless knew the price paid under this commissary contract, but there is no evidence showing that he had any personal knowledge of the contractors, or any personal intercourse with them, by which he could ascertain whether they were prepared to supplement their contract at the same rate in an emergency, and under the circumstances surrounding the Bosler contract. This commissary contract was let the year previous, upon ample notice by advertisement, and provided for deliveries through the succeeding year. The contractors had every opportunity to take advantage of markets and provide themselves with the means of complying with their contract. It does not by any means follow, because that contract existed during the years 1869–'70, and expired the 1st of July, 1870, that therefore the contractors were willing to furnish the large amount required immediately at the same rates. Indeed, it is very probable, if they desired to do so, some representative of the parties interested in that contract would have made known their wish to the Indian Bureau at the time. Nothing of the kind is shown, and I think by no fair comparison can that contract figure in this investigation, further than as showing the fact that a contract had been in force the year previous, at the rate of 4.44 cents gross; but it must be remembered that the contract provided for supplying not only the agencies along the Missouri River, but for various posts of the Army, and at points more accessible than these agencies, and where the delivery of cattle would cost less and involve fewer risks. These posts were also included at the same rate of 4.44; and to show that the rate of 4.44 does not necessarily govern and does not show the maximum price which would be reasonable for these agencies, I call the attention of the committee to an extract from the report of the Commissary General, printed in the report of the Secretary of War to Congress for 1870, on page 266, in evidence here, (p. 152.) It is shown that the average price paid for beef in Dakota Territory, for the years 1869-'70, was 4.88 gross; and this also embraced military posts which were more accessible than the Indian agencies referred to. This beef was furnished after ample time for advertisements, and where the deliveries ran through the year.

I call the attention of the committee also, in this connection, to a table referred to in the testimony of Colonel DuBarry, an officer of the Commissary Department, (p. 99.) At Omaha, for the years 1869–'70, the Department paid 4.45 gross; at Fort Kearny, 5 gross, for the present year, 5½; Fort McPherson, 1869–'70, 5 gross; North Platte, 5 gross; Sidney Station, 5 gross; Fort Sedgwick, 5 gross, present year, 5 gross; Fort D. A. Russell, 5 gross; Fort Laramie, 5 gross; Fort Fetterman, 5 gross.

In May, 1869, the Commissary Department purchased in open market, to be delivered in June, 1869, for the Yankton and Ponca Indians, two lower agencies, at $5 75 gross; and in April, 1870, to be delivered in July, 1870, for these Indians, at $4 75 gross; again, in April, 1870, to be delivered in July, for these Indians, another purchase at $5 90 gross. In August of 1870 another purchase was made to be delivered in October, 1870, for these Indians at five cents gross; another purchase, to be delivered in July, 1870, at $5 15 gross. These last-mentioned purchases were made upon advertisements and proposals. In May, 1869, to be delivered in July, 1869, there were purchased for the Whetstone Creek agency and the Cheyenne and Grand River, 825 head, at 5½ gross.

It is in evidence that the prices of 1868, 1869, and 1870 did not materially vary. The table from which we have been quoting will show that the prices being paid for this year are in some instances higher than last year. It will be remembered by the committee that a considerable difference is made between delivering cattle along the line

of the Pacific Railroad (and the forts which we have named are along that line of road) and at these various Indian agencies along the Missouri River. That difference I will hereafter notice; but when we come to add to the prices paid by the Commissary Department the difference in delivering at the Indian agency, it will be seen that the price paid by Commissioner Parker was not high; indeed, if the testimony is to be credited, he paid less than the prices along the Pacific Railroad, with the difference added.

To return a moment to the commissary contract at 4.44, which, doubtless, will be kept constantly before the committee, I desire to call attention to the testimony of Mr. Hedges, a cattle dealer. I quote from his testimony, (p. 65:)

"Q. Did you sell any beef to the contractor who was supplying the Commissary Department for the various posts up the river last year?—A. I had a half interest in the 400 head of cattle sold to Colonel Denman last spring.

"Q. Were they sold to fill the Fenlon contract?—A. That is what he said.

"Q. What did you sell for?—A. Five cents, at Sioux City.

"Q. As they came from the scales?—A. Yes.

"Q. When was that?—A. I think it was in the month of May; he had exhausted the supply on hand, and this purchase was to fill up.

"Q. At the time you made this sale, were there other cattle in the market in Sioux City?—A. Yes, in the vicinity.

"Q. Do you know whether Colonel Denman had made efforts to get cattle?—A. Yes; he said that he found mine to be as cheap as any that were offered. H. T. Booge & Co. had a half interest in this 400 head.

"Q. What was the difference, if any, between the prices of cattle in Sioux City in May and in June, 1870?—A. There was very little change in that time." (See also p. 109, testimony of J. W. Bosler.)

I do not urge that from this circumstance it is to be inferred that the commissary contract was too low, but I do say that it shows the commissary contract not to be an unfailing guide; for it is quite sure that there was no money in a contract for beef delivered in that remote region along the Missouri River at 4.44 which was filled by purchases at five cents at Sioux City.

It is in evidence also (p. 102) that the Sherman-Harney peace commission paid in 1868–'69, 7.90 gross for supplying these same agencies, which was one cent more than was being paid by the Commissary Department for their regular supplies at that time. I am aware that the committee thought that incompetent testimony, as tending to show the price of beef in 1870, but the evidence is that the price did not materially vary during those years, and I still insist that the testimony is competent. But leaving out of view comparisons with contracts in existence prior to and at the time the Commissioner made his, let us examine what seemed to be to the committee the best evidence of the prices of beef at that time. This, it will be remembered, was arrived at by ascertaining the price of beef along the line of the Pacific Railroad, where the market is steady and the supply of beef somewhat constant.

It is in evidence that the price of cattle at Omaha and Sioux City and at Schuyler, along the railroad, are to some extent controlled by the prices ruling in Chicago, that is, the price would be the price at Chicago, less the freights and commission. The cost of shipping is about a half a cent a pound, and the commission 50c ents a head. (Pp. 66 and 109.)

On pages 185 and 186 will be found the prices current for the cattle in Chicago in June. 1870. The prices there given are gross weight. The sales for June 15, 1861 head, range from $6 75 and $7 for light cattle, to $9 for extra and prime shipping beeves per hundred, gross, (see testimony of J. W. Bosler, p. 109.) June 18, sales 875 head, $3 25 to $4 50 for common to fair Texan steers; $4 to $6 65 for stock and butchers' cattle; $6 25 to $8 25 for fair to choice; $8 45 to $8 60 for extra shipping steers. Market active, but prices low and variable. June 20, receipts 2,005 head; sales, 997 head, at $3 75 to $5 25 for Texan steers and native cows; $5 50 to $6 50 for fair to good butchers' steers; $7 to $7 87½ for good to choice; $8 to $8 87½ for extra shipping steers. June 22, receipts 1,617 head; sales 515 head, from $6 to $7 12½ for light to fair, $7 50 to $8 50 for good to choice. June 27, sales 1,618 head; $3 25 to $6 10 for Texan steers and cows; $6 75 to $7 62½ for fair to medium; $8 to $8 75 for good to extra shipping steers. Premium lot, averaging 1,403 pounds, sold at $9 25. June 29, sales 1,040 head, at $4 25 to $6 for common to fair cows and light steers; $6 25 to $7 50 for medium to good; $7 87½ to $8 25 for good to choice fleshy steers. June 30, receipts 2,130 head; sales 962 head, $6 to $7 for fair to medium; $7 25 to $8 25 for good to choice; $8 50 to $9 for extra premium shipping steers.

The cattle furnished by Mr. Bosler under his contract did not come within the grade of common or light steers, or fair cows, or stock cattle, but belonged to that class denominated good to medium. They averaged over a thousand pounds each, and, according to all the testimony in the case, Texan cattle averaging that are to be considered among the higher-priced and better classes of Texan cattle. Now, if we deduct half a cent a pound from Chicago prices, and the trifle of fifty cents a head commission

for selling, and something possibly for loss of weight, it will not be possible to bring the prices upon that basis along the Pacific Railroad, west of the Missouri River, below four and one-half cents a pound gross, and that is what Mr. Bosler paid for the cattle which he delivered under the contract.

Leaving the Chicago prices, let us examine the testimony of witnesses as to the value of beef cattle in the beef markets west of the Missouri River. I quote from the testimony of Charles E. Hedges, cattle dealer, resident at Sioux City, Iowa, (p. 65:) "has been in the business largely for six years."

Attention has already been called to the fact that this witness sold beef at five cents at Sioux City to fill the commissary contract.

I quote again from this witness:

"Q. Did Mr. Bosler apply to your firm for cattle in the latter part of June, 1870; and, if so, what were your prices?—A. He asked us what we would furnish cattle for, and we told him at 4½ cents a pound. That was in June, 1870, at Sioux City."

The cattle furnished by Mr. Bosler, for which he received 6½ cents, he bought at 4½ cents a pound, he to furnish escort, and to be responsible for all damages from Indian raids, (p. 62.) These cattle were bought in the neighborhood of Schuyler, on the Pacific Railroad.

In Mr. Walter A. Burleigh's testimony, (pp. 89, 90,) reference is made by him to a small contract for furnishing beef to the Santee agency, which was the lowest down of those furnished by Mr. Bosler. This was in 1869 and 1870. He was paid at the rate of 7.22 net. The kind of cattle furnished by him, he says, were cows, calves, yearlings, and steers; a very different class of cattle it will be remembered from those furnished by Mr. Bosler, and of much less value in market. They were butchered upon his farm, and he retained the hide, tallow, &c. His contract, he says, amounted to some $16,000 or $18,000; but he says (p. 92) that he lost $6,000 on it.

"Q. What was the occasion of that loss?—A. I took the contract too low, and I lost some cattle.

"Q. By stampeding?—A. Not altogether, but because I took it too low."

The witness also speaks of having made a proposition in March to supply these agencies at four cents, but the proposition itself is not in evidence, nor is the reply of the Indian Bureau. The proposition was not renewed, and cannot be fairly considered in connection with this investigation. It looked to the supply for the succeeding year, and looked also to the fact of his having ample time to make his preparations and his purchases accordingly.

This witness was asked by the chairman what he would have supplied the beef under the Bosler contract for, and assuming that the deliveries were in three installments—the first on the fifteenth of July, the second the first of August, the third the first of September—he answers:

"A. I do not think I would have delivered the first installment for less than 6½ cents, the second installment less, and the third installment still less.

"Q. How much less would you have delivered the second installment for?—A. I think a cent a pound less.

"Q. How much less the third installment?—A. I should think there would be half a cent more.

"Q. So that the first installment would be 6½ cents, the second 5½, and the third 5 cents?—A. Yes, sir. I believe I would have taken the contract for that, with the assurance that the money was to be paid as soon as the cattle were delivered."

But it will be remembered that the cattle were not delivered in installments, but were delivered at one time under this June 17th contract; and according to Mr. Burleigh's testimony 6½ cents was a reasonable price.

By the testimony of John Finn, (p. 99,) if his testimony is to be considered in this case, it will be seen that he got 3½ cents gross for cattle delivered at the Winnebago agency, which is below Sioux City. These cattle were like those furnished by Mr. Burleigh, and were what the witness denominates "common run;" that is, some cows and some steers.

This witness offered to furnish at the Whetstone agency, one of the lower agencies, at 4½ cents gross, which I suppose should be taken into consideration in arriving at the prices of beef, although it by no means follows that he would have complied with his offer had it been accepted.

Without stopping now to make further reference to the testimony as to the prices of beef along or near to the line of the Pacific Railway, I think sufficient has been shown to show that 4 or 4¼ cents a pound would be a fair price for beef at that time, in the beef-markets along that line of railway. With this as a foundation, let us ascertain from the testimony what would be a fair price for beef delivered at the Indian agencies alluded to. It is well to remember that the dangers increase as you advance up the Missouri River. The country is wild and uninhabited, and open to incursions from hostile Indians. Many witnesses have explained what the risks are, and how sometimes a trifling circumstance will stampede a herd of cattle, which will result in total loss. One Indian emerging suddenly from ambush with his blanket raised in the

air, and with an Indian yell, would stampede a whole herd. All of the witnesses who have spoken of the risk attach the greatest importance to that arising from stampeding; but without explaining this more fully, as it is familiar to all. I will only call attention to the computation made by witnesses, so as to arrive at the money value, so to speak, of this risk.

Mr. Ward, a witness familiar with the whole country and particularly with the risks of driving cattle among the Indians. I quote from this witness, (p. 16:)

"Q. Can you state the difference between the price of furnishing beef along the line of the Pacific Railroad and in furnishing it on contract for the posts running from Yankton up to Grand River?—A. Taking the risk and everything, I should say not less than seventy-five per cent. in favor of furnishing beef along the line of the road."

[The printed testimony says "75 *cents*," but the committee will remember, and the error is a patent one, that the testimony was "75 *per cent.*"]

"Q. Upon what do you base that difference?—A. Upon the risk of capture by the Indians, of crossing the streams, and of the stampeding of the cattle.

"Q. Have you had experience to enable you to speak of that matter from your own observation in that country?—A. I think so; that is as little as I would be willing to do it for."

In this connection, I may as well, perhaps, as elsewhere, give the opinion of this witness as to what he would have furnished cattle for to these agencies:

"Q. State as nearly as you can the value of beef in that country in June, 1870; what would be a fair price for supplying the Indian posts from Yankton up to Grand River?—A. There is a difference between Texan cattle and American cattle. I should not be willing to take a contract for less than seven cents to deliver them along up at the different posts."

I quote from the testimony of Mr. Hedges, (p. 65:)

"Q. What percentage would the risks and expenses of delivery from Sioux City, up the Missouri River, at the various agencies, reaching as high as Grand River, be beyond delivering the same cattle at Sioux City?—A. It would be owing a great deal to a man's luck. I suppose somewhere from 20 to 40 per cent., I think."

I quote from the testimony of the witness, A. C. Leighton:

"Q. State what per cent. of difference you would make in filling a requisition to deliver goods at the Indian agencies along the Missouri River, extending up as high as the Grand River agency, and delivering them along the line of the Pacific Railroad?—A. I have never delivered goods in that country, but I consider the risk a great deal more. I would consider it at least a hundred per cent. in advance of delivering them on the line of the railroad.

"Q. Why would you consider the risk greater?—A. From my experience in delivering goods in the Indian country, I would require at least one hundred per cent. more for delivering them in the country you speak of, than along the line of the Pacific Railroad, whether cattle or anything else.

"Q. Do you know the dangers that are involved in driving cattle through the Indian country?—A. I do, for all kinds of stock. I have been in the Indian country ever since posts have been established along up there. I was at the Powder River post and in that country until the abandonment of that post."

By Mr. SARGENT:

"Q. Have you ever bought and sold cattle?—A. No; I never had anything to do with cattle.

"Q. And never had any delivered in that way?—A. No, sir."

By Mr. CHIPMAN:

"Q. But I understand that you know something about the risks that are involved?—A. Yes, I have never driven cattle, but I have driven horses and mules, and am familiar with the risk attending the driving of any description of stock.

"Q. On what data do you base your estimates?—A. I make them from my own experience in driving horses and mules, and in supplying any kind of goods."

As further illustrating this difference, I might again refer to the testimony of John Finn, who furnished cattle at the Winnebago agency, which is near the Pacific Railway, at a cent less than he offered to furnish at one of the lower agencies above the Pacific Railroad, and where the risk would be comparatively little to those attending the driving of cattle as far up as Grand River. This is also illustrated by the testimony of Mr. Hedges, who furnished beef of the character which Finn supplied under his Winnebago contract, which were a low grade of cattle, at 3½, while he was selling cattle of a better quality at 4½ and 5, and makes a difference of from 20 to 40 per cent. in the delivery at the upper agencies and at Sioux City; and this difference may also be arrived at from the testimony of Dr. Burleigh, who makes a difference of two or three cents a pound.

The committee will perceive how widely the witnesses differ in this estimate. Mr. Hedges says it depends a great deal upon luck, and he estimates from 20 to 40 per

cent. difference; Mr. Ward puts it at 75 per cent.; Dr. Burleigh about the same; Mr. Leighton at a hundred per cent. If we take 50 per cent. as the average, (and that would seem to be a fair one,) we will find the amount paid to Mr. Bosler, of 6½ cents, to be less than the price of beef cattle along the Pacific Railroad, with 50 per cent. added. In this estimate I have left entirely out of view the circumstances under which Mr. Bosler made his contract. I have said nothing with regard to the risks on account of there being no appropriation at the time; for while this is an important element with contractors, and did enter into the contract of June 17, it could not be said to have done so in the extension of that contract of August 10; and I believe that consideration may be laid entirely out of the question, and the price of beef under both contracts be found to be a fair one. Certainly it is in the contract of June 17.

But there is an element which may also be considered in this connection as enhancing the price of beef, and that is the ordinary delays of payment. It has been said by several witnesses that money is worth from one to two per cent. a month in that country. (See testimony of Hedges, Charles, and others.) It is also in evidence that the difference between dealing with a man of prompt payment, such as Mr. Bosler, and with the Government, where nothing but the ordinary delays of payment occur in sending vouchers on to Washington to be audited for payment, that there is a difference of from 15 to 20 per cent. (See testimony of Hedges, Charles, and others.) Any one at all familliar with the transactions of the Government knows that this is but a fair margin to cover contingent delays. Any contractor will tell you that in making his estimates, where advertisements for proposals are published, this delay of payment always enters into his computations. I think, therefore, if the question of there being or not being appropriations at the time this beef was purchased is not considered, the price will still be a fair one, when we add to the market prices for beef the risks, and a proper per cent. for ordinary delays of payment. Take 4 cents as the value of good merchantable Texas cattle, such as those that were furnished, as the basis in the markets along the Pacific Railroad, and how does it figure out? If we add 50 per cent. for risks of delivery, the result is 6 cents. If to this be added 10 per cent. for delays in payment, we have about the price paid to Mr. Bosler. How much of that was net profit is not in evidence, but if we deduct from it what the witnesses all agree to be a fair estimate, to cover risks, &c., there is absolutely nothing left for profit. If the contract proved to be a profitable one, it was Mr. Bosler's good fortune that made it so, and no reasonable man ought to conclude, that because in this case he was lucky, that the Commissioner, therefore, made an improvident contract, when, according to all the probabilities which govern men in that country in making contracts of this character, it was only his good fortune and good luck which made it profitable, and not the probabilities themselves. If luck had been against, rather than in favor of Mr. Bosler, it is not difficult to see how he might have lost a large amount of money. There may be wise men, who, looking back over the transactions at this time, and knowing how Mr. Bosler came out in this contract, would say that he was paid too much; but I doubt whether any responsible man could have been found at that time who would have undertaken what Mr. Bosler did, under the circumstances, for a less sum.

I suppose, Mr. Chairman, that in connection with this matter of beef purchases, the contract of Mr. Morrow, made in September, for supplying these same agencies, upon advertisements and proposals, at 3.88 cents gross, will be offered in comparison, to show that 6½ cents was an extravagant price. Whatever effect that contract may have upon other questions involved in this investigation, it does seem to me that, in view of the testimony adduced, it cannot fairly be considered as furnishing any basis for the value of beef supplied by Mr. Bosler under the contract in June and August. We do not know what were the circumstances which led to the letting of that contract at that low figure. We do know that, if the testimony of witnesses is to be believed, it cannot be complied with except at great loss to the contractor. Mr. Bosler is himself interested in that contract, and he has testified (p. 63) that it cannot possibly be filled except at a loss of from $75,000 to $100,000. Mr. Morrow was subpœnaed to testify to the same effect, and it was admitted by the committee, that if present he would swear to that fact. The admission is as follows, (p. 108:)

"That there would be a loss to the contractor on the Morrow contract, with the most prudent management, of $75,000 or $100,000."

Everything in the testimony corroborates the truth of this statement. Beef cattle ready for delivery cannot be purchased in the beef markets in Kansas and Nebraska, for less than the price under this contract.

The whole amount to be delivered at 3.88 amounts to $277,032. If we add to that the loss at the lowest figure, $75,000, we have $352,032 as the actual cost of delivering the cattle at these agencies, or 4.93 gross, leaving nothing for profits. Can this contract, then, be any guide in ascertaining the value of beef cattle at the time the contract was made with the Commissioner which we have examined?

I suppose, Mr. Chairman, the case is to be decided upon the evidence in the record. We cannot, if we would, judge of this case fairly, upon any other rule; nor can we profit, in our judgment, by the experiences of the past year, and from an opinion which

must be set up as the infallible one, by which to test the judgment of Commissioner Parker in June, 1870. He acted upon the light he then had, and, I think the testimony shows, wisely; but if not, it would be unfair to censure him to-day, because, if he had the opportunity, he might again do better, or might have at the time done better, if he had known what he now knows. If public officers are to be held responsible for all the bad bargains which they may honestly make, and which, though prudently made at the time, are afterward found to be imprudent or bad bargains, who would escape censure, and who would be willing to undertake the responsibility of office if that were to be the rule by which he is to be governed?

PURCHASES OF FLOUR.

Another ground of complaint made against the Commissioner, is his purchase of flour without advertisement, and other articles, besides beef, by contract with J. W. Bosler, of June 17, 1870. I believe there is no evidence as to the prices of other articles, which need now be noticed besides the flour and beef, mentioned in that contract, and I am not aware that any one challenges the reasonableness of the prices, except as to those two articles. It is true Mr. Welsh makes some sweeping assertions as to bacon (with ribs) and sugar made of molasses, but the record is barren of evidence to support his charges. No evidence has been adduced to show that the Commissioner paid too much for coffee, sugar, and other articles mentioned in the contract, except as to beef and flour, and I suppose he may rest, in the absence of proof, upon the presumption that the prices were fair. The contract price for flour purchased at this time was six and one-half cents per pound, delivered at the various agencies reaching to Grand River. The supplies mentioned in this contract were to have been delivered between the 1st and the 15th of July, and were delivered promptly within that time. It will be remembered that these supplies were contracted for and delivered before any appropriation was made by Congress, out of which payment could be made. The contractor had but a few days in which to make his purchases and provide the means of delivery at the various agencies. The quantity required was considerable, and the means to which the contractor could resort were somewhat limited. Placing the flour at $3 50 at Sioux City, (the price subsequently paid by the Commissioner for an additional supply of flour at that point), and adding to it transportation and insurance, and considering the circumstances which we have mentioned, I do not think that any fair mind could attribute exorbitancy to the prices named in this contract. But the committee will remember that the objection to prices paid for flour was directed chiefly against the purchases made under anthority of the Commissioner's letter of August 10, to James W. Bosler; and while upon this subject of the price of flour, I may as well consider here the objection to that purchase of August 10. Laying out of view, then, all other questions except that of price, let us look at the evidence.

The amount furnished under this contract of August 10, was about 23,000 sacks, at $3 50 a sack. Of this amount, John H. Charles, a flour merchant of Sioux City, furnished 23,000 sacks, (see p. 72,) for which Mr. Bosler paid him $3 a sack, (see p. 72.) The Commissioner's idea in making the purchase in the way he did, was to avoid combinations and the appreciation of prices beyond a reasonable figure, and I think the testimony will show that he acted wisely in the premises. The amount of flour required was fully up to the capacity of that region of country to produce at that time. Indeed, before the millers and dealers were aware of the fact that a large quantity of flour would be required, they were bound up by articles of agreement to grind for Mr. Bosler's agents, (see deposition of Charles, p. 72,) and so complete was this arrangement, that some of the mills purchased back from Mr. Charles at a higher rate than they had charged, in order to supply their customers, (p. 72.)

The witness testifies as follows:

"Q. If it had been known at the time by you, and by the mills there generally, that 20,000 or 30,000 sacks would have been required, what effect would that have had upon the market?—A. If it had been understood that 25,000 sacks of flour were wanted, it would have raised the price of flour, and brought it very near to the rates for which it could be procured from Chicago, say $3 75 per 100 pounds. It would not have brought it up to that price exactly, but would have kept just inside of it, so as to prevent shipments of flour from Chicago.

"Q. Did the quiet way in which you made your purchases have any effect upon the market?—A. Yes, sir; taking out that much flour left the mills bare, and left the merchants bare. One of the merchants came to me and bought some flour, giving me twenty-five cents advance on the price which I paid to him on the same flour. He had his granary full of wheat at the time, but he could not get it ground, because the mills were working for me. The Chicago prices of wheat went up, and of course the city prices went up.

* * * * * * * *

"Q. If the Commissioner of Indian Affairs had advertised for 20,000 or 30,000 sacks of flour, to be delivered at Sioux City in August and September, 1870, what would have

been the effect on the flour market, and what would it have cost?—A. It would have cost me just inside the Chicago prices. For that quality of flour, it would have been in the neighborhood of $3 70 or $3 75. It would have cost that to bring it from Chicago, and we could have bought it just inside of that price. That is all that anybody would have done.

"Q. Why would it have had that effect?—A. Because very few people thereabouts could handle 25,000 sacks of flour, and they should have fixed their price at that point.

"Q. If you had known that Mr. Bosler wanted that amount of flour, could he have got it out of you at that price?—A. He could not. If I had not sold him the 5,000 sacks I had on hand, I would have got $3 50 for it, and in all probability a little over that." (Pp. 72, 73.)

There is an element, Mr. Chairman, entering into transactions with the Government which must not be overlooked, either here or elsewhere, in this investigation, and that is the difference between dealing with a private citizen of prompt payment, as Mr. Bosler is shown to have been, and dealing with the Government, where the customary delays in sending vouchers to Washington occurred. I invite your attention to the following questions and answers of this same witness:

"Q. What is the difference between selling to a man who pays promptly, and selling to the Government, where there is nothing but the customary delays in sending vouchers on to Washington and having accounts audited?—A. I would make twenty-five per cent. difference in favor of a man who would pay promptly, and whom, if he failed to pay, I could sue. I would want to charge the Indian Department twenty-five per cent. more than I would Mr. Bosler, or a man like him. * * *

"Q. What do you have to pay for the use of money up there?—A. From one to two per cent. a month. A low rate is one per cent. The usual bank rate is two per cent."

Now, if we take these two facts into consideration, it will be seen at once that the profit of fifty cents per sack, which Mr. Bosler derived, was not too large. Twenty-five per cent. of three dollars, the price which Mr. Bosler paid, is seventy-five cents, which added to the $3 would make $3 75 against $3 50 which the Government paid him. If we add the value of money to this computation, it will be seen that the difference is still greater. But, leaving those considerations out of view, still it will be admitted that the Government ought not to expect to make purchases from reliable men, and to look to them for prompt execution of contracts, without allowing some margin of profit. Men do not deal with each other upon any other theory, and it is a false notion to suppose that men deal with the Government upon any other. I read again from the testimony of this witness:

"Q. What would have been a fair margin or profit to warrant a prudent man in making a contract for 20,000 or 30,000 sacks of flour with the Indian Department at the time you have mentioned; do I understand you to fix it at twenty-five per cent?—A. That would be my rate; I should not want to do it for anything less. When we handle flour for merchants and people who pay promptly, our usual profit is twenty-five or thirty cents a sack. That is a fair wholesale profit; it is less than ten per cent."

According to the testimony of this witness—and we shall see he is fully corroborated by others familiar with the subject—Commissioner Parker, in the purchase of the 28,000 or 30,000 sacks of flour in August last, by the course he pursued instead of by advertisement, has saved to the Government not far from ten thousand dollars. I do not forget, Mr. Chairman, that upon the cross-examination of Mr. Burleigh, to whose testimony I will soon refer, you asked a question tending to show that the Government could have sent an agent to Sioux City for the purpose of purchasing this flour, and thus avoided the profits accruing to the middle-men or to Mr. Bosler. I do not know to what extent the questions and answers may have influenced the minds of the committee, and I beg, therefore, here to quote them, (p. 93:)

"By Mr. SARGENT:

"Q. If flour was to be bought here and there quietly, by the few hundred, say for two or three thousand sacks in amount, could the agent of the Government do that as well without employing a contractor?—A. I do not believe he could, for the very reason that the moment an agent of the Government goes out there, they mistrust something is up. If he went out there without being known at all, I have no doubt the flour could be picked up, but not that amount of it.

"Q. Is it necessary that the agent of the Government, going there for that purpose, should advertise it, either by his conduct or in any other way, so as to defeat his object?—A. I should not suppose it was. Still if a stranger should buy a large quantity of flour in that way, dealers would find it out very quick.

"Q. If a contractor finds it to his advantage to employ a resident commission merchant to make such purchases, paying a commission therefor, could not the Government act through those same means with advantage?—A. I see no reason why it could not if so disposed."

It is possible, Mr. Chairman, that if the Commissioner had turned his sole attention to this matter of purchasing flour, he might have devised a scheme by which to have

got the flour a trifle less. But, in applying to Mr. Bosler, he did no more than he would have done had he applied to a commission merchant. But I do not believe that any responsible commission merchant at Sioux City would have undertaken the purchase of this flour, in this quantity, taking the risks of combinations that might have been put up against him, at a less rate than Mr. Bosler. It is not possible in the nature of things for the Government to act in the matter of purchases of this character with the caution and business shrewdness of private individuals. The Government can only deal with responsible men on what seems to be a fair basis, leaving the contractor to make the best bargains he can, but always to make good his contract, no matter if it involves loss to him.

I have said that the testimony of Mr. Charles is corroborated by all who have spoken upon that subject; and while I feel compelled to avoid, as much as possible, lengthy quotations from testimony, yet so much has been said of this particular transaction, that I must be pardoned for calling your attention further to the testimony. Mr. Walter A. Burleigh, who has resided long in that country, and is familiar with the prices of flour and the flour market, gives the following testimony:

"Q. What would be the effect upon the flour market if an immediate demand was made, (and it was publicly known, by advertising or otherwise,) say for 20,000 or 30,000 sacks to be furnished at once?—A. The effect would be, in my judgment, to bring up the price of flour to the rate that you could get it from abroad, deducting the freight. When I took this contract of mine with General Clark, before going out myself, I sent out parties to purchase the flour, and they had to go to Cedar Rapids and buy it, in consequence of its being impossible to obtain that quantity nearer home. Besides, the capacity of the mills in that country is limited, so that a large quantity could not be furnished at once.

"Q. How was it in August, 1870; could this result have been avoided then?—A. It is one of the tricks of the trade out there, and I suppose everywhere else. They probably would have put up the prices, so that it would cost the same as if it was bought at a large market, with the freight out; I always found it so; and I have bought a great deal of flour for the Indians.

"Q. If you were then intending to purchase ten or twenty thousand sacks in that market, what course would you pursue if you wanted to get it cheapest?—A. I would buy it quietly, unless I expected to pay the Chicago or St. Louis price, less the freight," (pp. 90, 91.)

The witness meant, as his testimony elsewhere shows, that freight should be added, and this is what other witnesses say.

The witness Charles E. Hedges, who is familiar with trade in that vicinity, testifies as follows:

"Q. What effect upon the flour market would an immediate demand for 28,000 sacks have, if it were generally known—say in August last?—A. It would have the effect of immediately appreciating the market price.

"Q. Up to what point?—A. It is pretty difficult to determine.

"Q. Can you state what appreciation it would make in the price?—A. From fifty cents to a dollar a sack.

"Q. Why?—A. Everybody in the country would know that it would require nearly all the flour in the country to fill such a contract, and they would be satisfied that they could get their own prices, and would regulate their prices by what it would cost to ship it there from Chicago.

"Q. If you were going to purchase 28,000 sacks of flour in Sioux City at the best rates, would you advertise for it, or would you buy it quietly?—A. If I wanted to get it at good prices, I think I would go round and buy it quietly," (p. 67.)

A contract is in evidence between Superintendent Janney and Walter A. Burleigh, for the supply of flour at the Santee agency, one of the agencies lowest down the river. This flour was purchased at $3 35 per sack, (see testimony, p. 90.) He furnished about 2,600 sacks during the year. The witness (Burleigh) says:

"I bought a good deal of it in Yankton out of the wagons, and some at the nearest mills in Dakota, and the balance I bought in Nebraska, below the agency." (p. 90.)

I suppose it will hardly be urged that the difference of fifteen cents between this and the price paid to Mr. Bosler should influence the minds of the committee. The amount furnished by Mr. Burleigh was such as could have no effect upon the market, and could be bought in the neighborhood and at ordinary prices.

This, Mr. Chairman, is the testimony upon which you are to base your judgment as to the wisdom of Commissioner Parker's conduct in this transaction. We are not now discussing whether he ought to have advertised in order to have kept himself within the letter of the law, or that he ought to have called upon the board of commissioners to supervise the purchase and delivery, or that there was an exigency which governed the purchase; but we are simply to inquire whether the course taken by the Commissioner was a prudent one, and resulted in good or evil to the Government. The witnesses all concur in the opinion that the course pursued by the Commissioner was a

wise one, and I do not see how a candid mind can fail, in the light of the testimony, to come to any other conclusion.

TRANSPORTATION CONTRACT.

Among other subjects inquired into by the committee, as to which charges were preferred by Mr. Welsh, is the contract made by the Commissioner with the Northwest Transportation Company for the conveyance of the goods and supplies of the Indian Department for the latter months of the year 1870. It is alleged, first, that he ought to have availed himself of the transportation contracts in existence with the Quartermaster General's Department; secondly, that he paid too high a price for this transportation; thirdly, and I suppose it will also be urged that he ought to have consulted the board of commissioners with regard to this matter.

As to the first allegation I have to remark:

First. That the Commissioner of Indian Affairs had no knowledge of the existence of any contracts with the Quartermaster's Department for transportation of Indian goods and supplies. General Parker so testifies, (p. 24.) Quartermaster General Meigs, being recalled to explain his first deposition, also so testifies, (p. 96.)

Second. I do not see how the Commissioner can be held responsible for not availing himself of the bargains made by other departments of the Government, or that it should be expected of him to inquire of other departments of the Government as to whether they had existing contracts which could be resorted to for the benefit or the uses of his department. The Interior Department, and its bureaus, in the conduct of its affairs, is as distinct from the War Department and its bureaus as the Treasury Department and the Interior Department. If Commissioner Parker had known that the Quartermaster General was prepared to take his supplies, there might be some reason in calling upon him to answer why he did not do so. But in the absence of such knowledge, it seems to me as though it would fix upon him a responsibility that ought not to attach to him, for omitting to make inquiry upon this subject, any more than upon any other matter of administration in his office. The Indian Department has always made its own contracts, both as to supplies and transportation, except in special cases where supplies were to be furnished from the Commissary Department, in which case the War Department, through the Quartermaster General's Bureau, usually delivered the supplies. But always when purchases have been made by the Indian Bureau, or the Interior Department, for Indians, provision has been made for their delivery by this department. General Meigs explains that the clause in the quartermasters' contracts for transportation covering Indian goods was put in as a matter of routine, and grew out of an arrangement in 1869, by which the Commissary Department had furnished supplies to the Indians, and, in doing so, had availed itself of the Quartermaster General's contract.

Third. Even if the Commissioner had desired to avail himself of the quartermaster's contract, it does not follow, by any means, that he could have done so. He had a large amount of freight to be sent up the Missouri River, including the necessary supplies to the Indians, and the annuity goods. It was not known precisely when they could be ready for shipment to Sioux City. With the Commissioner it was a matter of greatest moment that there should be no failure in their delivery, sooner or later, and, as the responsible head of his Bureau, he was compelled to be satisfied in his own mind as to the best means for their delivery. He had talked with men engaged in transportation, and had got their ideas with regard to prices. I quote from his testimony, (p. 30:)

"Q. Explain with regard to the question of transportation. The contract was dated September 26, yet some of the goods were forwarded, agreeably to your understanding, prior to that time. Did you complete, so far as you regarded it, the contract of Mr. Woolworth prior to his receiving any goods for transportation?—A. We had a full talk, prior to his receiving any goods at all, as to all matters connected with the transportation of Indian goods. He gave me a general idea of what they would do it for, with the exception, it may be, of one or two points high up the river. They did not want to take the Berthold goods, which they subsequently did take. He said they would not go up with a boat with less than 150 or 200 tons, or something of that kind. There were two or three minor points like these, which had not been settled when he went West, but I said to him that there must be no delay in forwarding the goods; that when they reached Sioux City, if there is a boat there, they must be forwarded at once, and for him to execute the contract as soon as he could, and send it back to me, and I would execute it on my part.

"Q. Did you inform yourself with regard to the responsibility of this transportation company to carry out a contract of that kind?—A. I did inform myself as far as I could, and satisfied myself, in my own mind, that they were the only parties on that river that could do the transportation I wanted without being subjected to inconvenient delays."

The annuity goods were late in being shipped from New York, and in their arrival at Sioux City, although every effort was made to hurry them forward. Large pur-

chases of flour were made in August, also to be transported, and a large quantity of bacon had been purchased under contract of September 26, at Chicago, which also had to go forward for shipment up the river, making it more than probable that shipments would extend into the month of November, and possibly December; and hence the contract was made to cover both of those months. The vouchers from the Second Auditor, (in evidence,) for the payment of transportation, show the dates of shipment, and from these it will be seen that while considerable freight went forward in September, by far the largest portion of it was late in October, and a large quantity in November. Now, the quartermaster's contract for freights from St. Louis expired the 31st of October, and ten days' notice at Sioux City was required in order to bind the contractor to take the goods, which would reduce the time of delivery to the 21st of October. Furthermore, General Myers, a quartermaster of long experience in the Department, and familiar with the manner in which this contract was made, testifies as follows:

"Q. State, if you know, whether there is an understanding between the contractors and Quartermaster's Department in bidding for these rates, that the bulk of the goods are to be sent up early in the spring, on the spring rise.—A. The rule with regard to the transportation of supplies by the Missouri River, is to advertise early in the spring, ascertaining beforehand the exact amount, as nearly as possible, which will be required at the different posts. The quartermasters usually inform those interested in bidding of the amount intended to reach each particular post, and the bids are made upon the presumption that the bulk of supplies will be shipped at the most favorable period of navigation of the Missouri River, which is the spring rise, commencing in May, and extending through the month of June and a part of July. And all the officers of the Government usually make it a point to have their supplies ready for that condition of the river, in order to get the supplies to their posts, and also to secure more favorable rates for freights. As a matter of fact, that theory is carried out, or at least has been carried out, to my certain knowledge, during the last ten years in which I have assisted in supplying these posts.

* * * * * * *

"Q. The object, then, of providing for later freights was to cover any contingencies of smaller lots to be sent up, which could not be provided for earlier in the season?—A. Yes, sir."

I do not say that, as this understanding is not embodied in the contract, that it would be binding. Yet it might have been a ground of objection on the part of the contractor, which would have led to delays in the shipping of the goods, leaving the Government only to its remedy upon the bond. But in a case like the present one, such a remedy could not be made adequate to the loss in not supplying the Indians promptly. Again, the quantity of supplies to be shipped under the quartermaster's contract, was limited; and although it appears that the limit was not reached by the Department, it was not at all certain at the time the Commissioner made his contract, that the War Department, through some emergency, or otherwise, might not have required the full amount of transportation provided for in the contract. However, I do not desire to pursue this point, for it would only be important in case Commissioner Parker had known the contract existed, and that he could have availed himself of it, which knowledge he did not possess.

As to the other contract with the Quartermaster's Department for transportation from Chicago, it provided for through freights from Chicago. It expired October 31, 1870, and could have been used by General Parker only for the transportation of bacon, which was purchased at Chicago. But of this contract he had no knowledge, and it ought not to be considered in judging of his conduct, except by way of comparison as to the rates provided for, when we come to examine the question of prices paid by the Commissioner under his contract, and this comparison will not be unfavorable to the Commissioner.

We come now to notice the second point stated with regard to transportation, viz: that Commissioner Parker paid too high prices for his transportation. One means of establishing this charge, and I may say the only one resorted to by the prosecution, has been the introduction of the quartermaster's contract heretofore alluded to; and the contract of freights up the Missouri River from St. Louis has been the one chiefly relied upon, and I suppose I may safely leave the other out of view. That contract provided for what are known as summer rates, that is to say, up to and including August. But as none of these goods and supplies were shipped during these months, the rates are therefore out of the question. According to the terms of the contract, the September rates were one hundred per cent. above those of the other months, and the October rates two hundred per cent. in advance of the summer months. I do not think that any fair comparison can be made between the quartermaster's contract and that of Commissioner Parker. There were certain advantages of great profit to the contractor in the quartermaster's contract, that were not in Commissioner Parker's contract at all. Some of these I will mention by way of illustration. It provided for the transportation of officers and soldiers. For example, from Sioux City to Yankton agency, the con-

tractor got $10 for each officer, furnishing him cabin room, but not subsistence; to Fort Randall, just above Yankton agency, $20; Whetstone agency, $26; Lower Brulé agency, $32; Crow Creek agency, $42; Fort Sully, (just above Crow Creek agency,) $48; Cheyenne agency, $52; Grand River agency, $56; Fort Stevenson, $86; Berthold, (the highest point of shipment by Commissioner Parker,) $100.

For soldiers, who were furnished room upon the decks without subsistence: From Sioux City to Yankton, $6; Fort Randall, $8; Whetstone agency, $10; Lower Brulé, $12; Crow Creek agency, $14; Fort Sully, $16; Cheyenne, $18; Grand River, $20; Fort Rice, $22; Stevenson, $26; Berthold, $32.

This contract also provided for horses, mules, and cattle. For carrying a horse, mule, or ox from Sioux City to Yankton, the contract pays $16; to Fort Randall, $28; to Whetstone, $40; Lower Brulé, $56; Crow Creek, $58; Fort Sully, $62; Cheyenne, $68; Grand River, $74; Berthold, (the highest point shipped to by General Parker,) $110.

Wagons and ambulances were provided for at equally high rates. This contract also provided for way freights between the various points from St. Louis to the highest point, and some of the rates paid I will state, to illustrate the advantages of this contract:

Rates paid, per hundred pounds, for transportation of way freight, under Hiram K. Hazlett's contract with the Quartermaster General, computed from contract for March 20 to October 31, 1870.

	March to July inclusive.	September.	October.	Table of distances.
				Miles.
Sioux City to Yankton agency	$0 75	$1 50	$2 25	142
Yankton to Randall	75	1 50	2 25	104
Randall to Whetstone	95	1 90	2 85	25
Whetstone to Brulé	1 00	2 10	3 00	120
Brulé to Crow Creek	1 00	2 20	3 00	11
Crow Creek to Fort Sully	1 15	2 20	3 45	79
Fort Sully to Cheyenne	1 15	2 30	3 45	65
Cheyenne to Grand River	1 10	2 20	3 30	115
Grand River to Fort Rice	1 15	2 30	3 45	110
Fort Rice to Stevenson	1 30	2 60	3 90	164
Stevenson to Buford	1 50	3 00	4 50	455

Table of distances from Sioux City to—	River distances.
	Miles.
Yankton agency	142
Fort Randall	241
Whetstone agency	271
Brulé agency	396
Crow Creek agency	401
Fort Sully agency	482
Cheyenne agency	541
Grand River	661
Fort Rice	776
Fort Stevenson	935
Fort Berthold	946
Fort Buford	1,201

I have been quoting from the September rates. The October rates are one hundred per cent. above the September rates, which will still further assist in showing the advantages of the quartermaster's contract to the contractor. The secretary of the Northwest Transportation Company, Mr. Woolworth, explains the advantage of this kind of freight, irrespective of the largely disproportionate prices paid for it. The tabular statement which I have just quoted was shown to the witness, and is appended to his testimony, from which I quote, (p. 83:)

"Q. Am I to understand from this tabular statement that the rates shown for way freights are the amount paid for the distances as shown in the same table?—A. Yes, sir.

"Q. Was or not this part of the contract favorable or otherwise to the contractor?—A. The way freights, so far as my knowledge has been, are always taken into account in making up the other rate to the principal points; that the way freights are much

larger, and go to make up a better rate on the other freight; that it is an advantage on a contract. Soldiers are a very large advantage on a contract.

"Q. What is the advantage of having soldiers, and cattle, and things movable?—A. The advantage in having soldiers is that you can load a boat with about all the freight you want to put on her, putting the freight in the hold, and then putting two hundred troops aboard of her is no disadvantage at all. If you run on a bar the soldiers can get off and walk around, and they are of great assistance on the boat if they are under discipline; and the receipts from the transportation of soldiers are always large.

"Q. In making bids for transportation with the Quartermaster's Department, have you heretofore had reference to representations made by Government officers that the bulk of freights would go up in the early months?—A. We did this year—for 1870.

"Q. In 1870 that was taken into consideration?—A. Yes, sir. We lost before for that reason, and before we bid on these contracts we had an interview with General Rucker, and were assured that this year he would not burden us in that way; that the freight should be hurried off, and come in under those contracts, on the early months.

"Q. How does that affect your rates, as shown in this Hazlett contract, for the late months; are they as high as they would be otherwise?—A. The estimate on that contract is made by adding the rates of each month together and dividing it by the number of months for which it is bid for, taking the average. When we bid, we were assured there would be little or no October freights; hence we did not put the rates high, because we were afraid of raising the average on account of competition.

"Q. What am I to understand from you, in regard to those October freights, with reference to their being put at a higher price?—A. I would say that a man bidding on that contract, understanding the business, if he had no assurance that he would have little or no October freights, he would make it higher.

"Q. If he had a large bulk in October, what would be the result?—A. In ordinary seasons he would lose a good deal of money. We had as good a rate as that before; but last year I do not think any money would have been lost under that contract, perhaps—that is, 1870."

I quote also from this same witness' testimony, (p. 82:)

"Q. Was the quartermaster's contract with Hiram K. Hazlett more advantageous to the contractors than the one made by Commissioner Parker with you?—A. I consider it so.

"Q. Why?—A. Under the quartermaster's contract large rates—full rates—were paid for way freight. There were soldiers, and the transportation of wagons, horses, and mules, and they would pay a much larger rate than common freight; and there were very often down-stream freights, by which the boats could double their receipts. The freight under that contract—the bulk of it—was shipped during the best months of navigation.

"Q, How was it with Commissioner Parker's contract in that respect?—A. The freight under that contract was shipped late in the fall.

"Q. And was liable to go to what month?—A. The expiration of the contract was the 1st of January. There were no down-stream freights under that contract; nothing but up-stream freights; no way freights included; nothing but up-stream freights."

I have already called attention to the fact, as shown in evidence, that contractors in bidding for the quartermaster's contract, expected the large bulk of supplies to go up at the earlier rates in the earlier months. And Mr. Woolworth explains that the rates for the later months of September and October were made lower than they ought to be, to reduce the average on the whole, by which the lowest bidder is finally determined. And all the witnesses concur in stating that there is more profit in freights at the lower rates taken in the early months, than at the higher rates taken in the later months. (See the testimony of General Myers, Mr. Charles, Mr. Hedges, and Mr. Burleigh.)

All the witnesses concur, and General Myers, who has had long experience in contracting for transportation up that river, states it distinctly that a contract made early in the season embracing summer and fall freights, where it is understood that the bulk of the freights are to go up in the early months, can be made more favorable in its terms for transportation during the late months, for whatever may be then required to be made late in the year, for the late freights. All these things considered, it would seem to me unfair to make the Quartermaster General's contract an unfailing guide in determining whether Commissioner Parker's contract was fair or otherwise—made late in the season, and under totally different circumstances, and embracing only pound-freights, with no down freights, no way freights, no large prices for movable articles, and at a time when, in all human probability, a large amount would have to be shipped by wagons. I find upon actual computation, that of the freights shipped by Commissioner Parker under this contract with the Northwestern Transportation Company, there was taken to the various agencies in the month of September, after the 24th day, a trifle over one million pounds. If we are to be governed by the Quartermaster General's rates for that month, Commissioner Parker paid too high. But this we have seen is not a fair standard, and ought not to govern in the case. On computation for the month of October, I find there were a little over two million and a half pounds shipped, the greater

part of it after the middle of the month, and a very large portion of it delivered at the agencies on the last days of the month; and, in the month of November, during which there were no rates provided for by the Quartermaster General's contract, there were delivered about half a million pounds of freight, and the most of this after the middle of November.

Now let us look, as briefly as we can, at the testimony in regard to the navigation above Sioux City at that season of the year. In the first place, the witnesses concur in stating that it would not be safe to send freight by water to a point higher than Whetstone agency (which is about 270 miles from Sioux City) after the 10th or 15th of October. Upon this point I refer to the testimony of Mr. Woolworth, Mr. Charles, Mr. Hedges, Mr. Burleigh, and General Myers.

It will be seen, then, that although the quartermaster's contract provided for freights during the month of October, it never could have been contemplated that they were to be sent at that late season of the year, for no such terms could have been secured in the contract. Upon this point General Myers is clear in his testimony.

There is much testimony in the record explaining the perils of navigation at that season of the year. I do not feel warranted in quoting it at length here. I think I can state, briefly, enough of this to remind the committee of the testimony in the case; and if any doubt exists as to my accuracy, I refer to the testimony of the witnesses just named. It is shown that the water is always low at that season of the year, and that there are high winds prevailing, which are unknown in the early months of the year. This alone, as witnesses have stated, often delays boats many days. There is danger of ice after the middle of October. A boat caught in the upper river by ice seldom escapes. Insurance is 25 per cent. upon hulls, and late in the season cannot be obtained at any rates. It is also shown that last year was an unusual one, and that this stroke of fortune was all that saved the transportation company from loss under their contract. I suppose that such a thing as the delivery of freights by water at Fort Berthold, in the latter part of November, and the return of the vessel safely, has not occurred upon that river before last year within the memory of man. To show something of the peril of navigation during the carriage of this freight, I read from the deposition of Mr. Woolworth, (p. 84:)

"Q. Did you lose a boat during the execution of the Parker contract?—A. Yes, sir.

"Q. What was her value?—A. She was valued at $10,000, but cost more.

"Q. How did you deliver what freight you saved?—A. We sent another boat to her. The crew saved about half her cargo; saved her deck cargo, put it ashore, and we sent up another boat which delivered it.

"Q. At what cost?—A. It cost us $1,000, I should estimate, over the receipts."

I must ask the pardon of the committee for quoting again from the testimony of this witness, (pp. 83, 84.):

"Q. Did you make a contract in 1869?—A. Yes, sir; with Captain James Gillis, quartermaster at Sioux City. We made that contract in September—I think about the middle of September—to Fort Buford. We got 8 cents for that.

"Q. Where is Fort Buford?—A. It is above Berthold—250 miles above.

"Q. Did you carry any private freights at that time?—A. Yes, sir.

"Q. What freights did you get?—A. Ten cents.

"Q. Was that contract let upon proposals?—A. It was.

"Q. Do you remember any instances of starting boats as late as in August, 1869?—A. Yes, sir; we started two boats to Fort Benton in August.

"Q. How loaded?—A. Loaded light with Government freight, under a contract we had with the Quartermaster General.

"Q. How far did those boats go up?—A. To the mouth of Milk River.

"Q. Where is that?—A. I think about 400 miles above Fort Buford.

"Q. What time did they reach there?—A. About the 1st of September.

"Q. What was the result of that trip?—A. The water was so low that the boats could not go any further than the mouth of Milk River. There they put their freight ashore, and the captain divided the crews, and left part of them there with the freight, and sent the boats home.

"Q. How were they at last delivered?—A. The captain sent a messenger to Fort Benton and got an ox train of a hundred wagons, and hauled the freight up to the fort from there.

"Q. What was the result of that operation financially?—A. The company lost $20,000 on the two trips."

Now, Mr. Chairman, I desire to call your attention to Exhibit B, (pp. 87, 88,) attached to the deposition of this witness. I prepared it during the course of the trial for the purpose of illustrating the comparative prices paid by Commissioner Parker under his contract last year, and for the purpose, also, of comparison with the contract made in 1868 by the then Commissioner of Indian Affairs, and the contract made in 1869 by Commissioner Parker. I have taken from the quartermaster's contracts in this exhibit the rates of freight for the month of October. I think it is not too much to say that the difference between the September and October rates provided for in the quarter-

master's contract, and the rates in Commissioner Parker's contract, are more than balanced by the difference in the character of the contracts, and the circumstances under which they were made. And yet it will be seen that the rates paid by Commissioner Parker were but little in excess of those paid in October by the Quartermaster General, and that a large amount of the Indian freights were sent forward late in the month of November, during which no provision was made in the quartermaster's contract, and during which time, as General Myers told you, it would have been almost impossible to have made a contract at any price. The tabular statement is as follows:

EXHIBIT B.

October freights, per hundred pounds, under Hiram K. Hazlett's contract with the Quartermaster General, computed from contract for March 20 to October 31, 1870, inclusive.

Sioux City to Yankton agency	$2 25
Fort Randall	2 25
Whetstone agency	3 00
Lower Brulé agency	3 30
Crow Creek agency	3 75
Fort Sully	3 90
Cheyenne agency	4 80
Grand River agency	4 80
Fort Stevenson	6 00
Fort Buford	6 75

Fort Berthold is between Stevenson and Buford. Quartermaster General's contract had no rate to Fort Berthold. The rate would be governed by rate to next point above Berthold, which would be Buford.

Rate of freights, per hundred pounds, under contract of Northwestern Transportation Company with Commissioner Parker, dated September 26, 1870, for September, October, November, and December, 1870.

Sioux City to Yankton agency	$2 25
Whetstone agency	3 25
Lower Brulé agency	4 25
Crow Creek agency	4 25
Cheyenne agency	5 25
Grand River agency	6 25
Fort Berthold	7 50

Transportation contract of March 25, 1868, from April 1 to October 1, 1868, between Northwestern Transportation Company and N. G. Taylor, Commissioner of Indian Affairs; rates per hundred pounds.

New York City to Yankton agency	$7 72
Whetstone agency	7 72
Brulé agency	7 72
Crow Creek agency	7 72
Cheyenne agency	8 72
Grand River agency	8 72
Berthold agency	10 72

The average railroad rates from New York to Sioux City were $2 60 per hundred pounds, which, deducted from this table, shows as below:

Sioux City to Yankton agency	$5 12
Whetstone agency	5 12
Brulé agency	5 12
Crow Creek agency	5 12
Cheyenne agency	6 12
Grand River agency	6 12
Berthold agency	8 12

Yankton, Whetstone, Brulé, and Crow Creek agencies are between Sioux City and Fort Sully; Cheyenne and Grand River are between Forts Sully and Rice; Berthold is between Fort Union and Muscleshell.

Commissioner Parker's contract of May 13, 1869, is at same rates as contract of Commissioner Taylor for 1868.

Rates paid under contract with same company, September 28, 1870, for September, October, November, and December, 1870.

Sioux City to Yankton agency	$2 25
Whetstone agency	3 25
Lower Brulé agency	4 25
Crow Creek agency	4 25
Cheyenne agency	5 25
Grand River agency	6 25
Berthold agency	7 50

I think that any one examining this table, and keeping in mind the facts to which I have called attention, will not discover any improvidence or wastefulness of public funds in the matter of Commissioner Parker's contract of last year.

It is not in evidence whether the Northwest Transportation Company derived any profit from their contract, nor does it appear that they suffered a loss. That company is not on trial here, nor is it important whether they made or lost money. But I feel authorized to say, in connection with the developments with regard to the transportation of the Indian goods and supplies, that I do not believe anything short of the most commendable enterprise could have ever accomplished what this company did in the delivery of those goods. And I do not believe that Mr. Welsh, or any other man, could have made provision for the delivery of such an amount of freight as Commissioner Parker was called upon to deliver at that late season, upon better terms, or could have more successfully executed the work. I know that it was a matter of congratulation among all who were interested in the delivery of the goods, that it had been so successfully accomplished; and I know that the transportation company were accorded no little credit among shippers and merchants for accomplishing what seemed an impossibility at the time.

But that is of no consequence. You are to say whether the bargain Commissioner Parker made was a fair one under the circumstances. You are not to split hairs in looking back over this matter, to say whether here and there a dollar, or a thousand dollars, may have been saved. But you are to say whether, in view of all the facts, you, yourselves, in the honest discharge of the duty then devolving upon the Commissioner, and with the information he then possessed, would have done as he did, and in making this inquiry, I feel quite sure you will discover no wastefulness or improvidence.

A third point was suggested in opening this question of transportation, which was, as to the duty of the Commissioner, to consult the board of commissioners in relation to the making of this contract. I have not treated that question in any of the subdivisions of this summing up, but have reserved it for a separate examination. It is admitted by Commissioner Parker that he did not consult the board with reference to the making of the contract of June, 1870, or its extension in August, nor was the board called upon to inspect the articles delivered under those contracts, nor was it consulted in the making of the transportation contract just noticed, nor to inspect the bacon purchased at Chicago on advertisement, nor in the making of the purchases of presents for the Osage Indians. I will address myself to that branch of the case shortly. As the same reasons apply in all these instances, it will hardly be necessary to examine each separately, although some remarks may be made in passing with reference to each.

CIRCUMSTANCES CONNECTED WITH LETTING THE CONTRACTS.

I propose now, Mr. Chairman, to group together as fully as possible, the various circumstances connected with the letting of the contract of June 17 to Mr. Bosler, and the extension of the contract of August 10, as to beef and flour, and the making of the transportation contract of September following, with the view of looking at the worst features of the case, as they affect the conduct of Commissioner Parker.

I have given somewhat fully, though not all, the evidence, which showed the presence of an exigency which had to be met in some way in June last. I think I need not again refer to the testimony bearing upon that point. Assuming, then, that the exigency will be admitted, let us see how far he honestly and fairly met it.

Commissioner Parker has told you in his testimony, that he consulted the Secretary of the Interior fully and freely. As the two contracts of June and August were made under what the Commissioner regarded similar circumstances, and to provide for a similar state of things, it will be as well, perhaps, to treat of the two together in this connection. On page 29 I read as follows:

THE BOSLER CONTRACTS.

"Q. Had you any previous acquaintance with Bosler prior to the contract made in June, 1870?—A. I may say that I hardly had any at all. I had seen him two or three times before this contract was entered into, or perhaps three or four times altogether.

"Q. Had you any information as to his responsibility or reliability for complying

with any contract he might undertake?—A. I did inquire as to his responsibility from parties who I supposed would know respecting his capacity to execute or fill any contract he might enter into, and my information was that he was a good contractor, perfectly responsible and reliable.*

"Q. About the extension of the 10th of August, what, in your mind, was the controlling reason for making this extension, what were the necessities at that time which required it?—A. The main reason I had in my mind was simply to prevent the agencies from running short of supplies for the Indians on the Missouri River. I looked at it in this way: The beef supply, under the arrangement of June 17, was becoming exhausted, and before I could advertise, contract, and get beef under the contract, the agencies would probably be entirely out of supplies, and the Indians would have left the agencies, which I wished to avoid if possible. That was my reason for ordering the extension.

* * * * * *

"Q. Was your conduct in the matter, or not, based upon your best judgment, as an officer of the Government in charge of the Bureau of Indian Affairs?—A. It was based upon my best judgment. I thought, at the time, I was doing the best I could under the circumstances surrounding the case.

"Q. Had you any reason to favor Bosler in any particular?—A. None at all.

"Q. Did you ever favor him purposely?—A. No, sir.

"Q. The contracts spoken of were made with a view to the best interests of the service, as far as you could judge, at that time?—A. That was my idea.

* * * * * *

"Q. In regard to advertising for bacon and beef, in August, did you purposely defer that advertisement in order to give Bosler an extension of his June 17 contract?—A. No, sir; it never entered my mind.

"Q. Had you any correspondence with Bosler in regard to the June 17 contract whatever, in which you gave him to understand that you intended to give him an extension?—A. No, sir; I had no communication whatever with him to that import.

"Q. State whether or not the first knowledge he had of your intention to give him an extension was your letter of August 10.—A. I suppose that was ths first intimation he had. I did not indicate to any one my intention to do anything of the kind. I found that it became absolutely necessary to extend his contract, or make a new one with somebody else, instead of waiting for a contract under an advertisement."

The witness then explains the circumstances attending the advertisements, after which the following question and answer are found, which I read:

"Q. Then, to meet an emergency, your office has never regarded it safe to wait for contracts by advertisement?—A. We could not do it very well. When an emergency occurs, we must take all the precaution we can to inquire into the responsibility and ability of the party to execute what he proposes to do, see that the price named is a reasonable one, and make the best contract we can."

WHY ADVERTISEMENTS WERE NOT PUBLISHED.

I think it not improbable, Mr. Chairman, that you will attach importance to the fact that advertisements were not published immediately after the passage of the appropriation bill, thus avoiding the extension of Mr. Bosler's contract, which took place August 10. And it may, perhaps, not be easy for the committee to perceive why this advertisement was deferred. But it will take a great deal of testimony and many suspicious circumstances to convince any one who knows Commissioner Parker, that he purposely deferred publishing that advertisement in order to give Mr. Bosler the benefit of an extension of his contract of June; especially is this so, when the Commissioner testifies so directly and ingenuously upon the subject. To one who will reflect upon the multifarious duties of his office, it will readily appear, after reading the testimony, that he might very naturally overlook this matter in the press of other and equally important business, and during his necessary absence in New York, making the purchases of annuity goods.

With regard to this matter, ex-Secretary Cox testifies, page 77:

"Do you know of any reason why the advertisement could not have been inserted a week or fortnight earlier?—A. None, except that the general was in New York, busy with the purchases there, and having a good deal on his hands. I could see how, in the rush of work after the appropriation bill was passed, he might leave other matter unattended to for a time.

* * * * * * * *

"Q. Was anybody left here to attend to the business of the Department?—A. Of course. The chief clerk is, by law, the acting Commissioner in the absence of the head of the Bureau, just as Judge Otto is Secretary in the absence of the Secretary.—Q. Was there anything to prevent his inserting it a week earlier?—A. Nothing that I

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*Several witnesses, among them General Myers, testified to Mr. Bosler's uprightness of character and reliability as a business man.

know of, except that he seemed to hesitate to take the responsibility, and that was the case during the whole of Commissioner Parker's absence. I think it might be said that Mr. Cady was hesitating to take the responsibility, and consequently the general was attempting to do, by telegraph from New York, pretty much all the work." (P. 78.)

Upon this question of advertising, the Commissioner testifies, (page 31:)

"Q. Do you remember when your attention was first drawn to the matter of advertising for beef and bacon?—A. No, sir. I suppose it had been on my mind at different times after the passage of the appropriation bill as well as before, but I could not get to work preparing the thing until probably a week before the 26th. I was in New York, and the matter was overlooked in the office.

"Q. I find here in the correspondence, printed, a letter of Mr. Cady, acting Commissioner, to the Secretary of the Interior, dated August 13, stating that the office was about to advertise for proposals for subsisting the Indians. Do you remember whether you were here in Washington, yourself, previous to that?—A. I was in New York. I came here on the night of August 9, and was here the 10th and 11th. I think I left for New York the night of the 11th.

"Q. And while you were here in town you extended the Bosler contract?—A. Yes, sir; and at the same time I probably suggested to Mr. Cady that the preliminary steps be taken toward advertising, under the law, for beef and bacon, providing it had not been done. I have no recollection of that, but that is what I naturally would have done. I have no memorandum on the subject.

"Q. In your administration of the office, have you, or not, had frequent consultations with your superior officer, the Secretary of the Interior?—A. I had daily conference with him upon every subject relating to Indian affairs.

"Q. State whether there was any concealment, upon your part, about what you were doing in regard to supplying these Indians, or whether the Secretary was informed upon the subject?—A. There was no concealment upon my part. My communications were open and free with the Secretary. I wish to say here, as a matter of explanation, that a great deal of the business of the Indian Office, and of the administration of the office, is carried on by verbal conversation with the Secretary of the Interior, of which no memorandum or record is kept. As a matter of course, they result in an order or instructions or directions in writing from the Indian Office, and nothing appears on record showing the consultations taken between the Secretary and the Commissioner on the subject.

"Q. That is, you take your portfolio and talk with the Secretary verbally about it?—A. Yes, sir.

"Q. Explain whether you talked with him in regard to supplying the Indians as provided for in this contract of June 17?—A. I had frequently talks with him in reference to entering into this contract of June 17. He was aware of the whole of it.

"Do you remember whether you consulted with him when you came over from New York?—A. He telegraphed me to come over August 9, the day before the extension.

"Q. Do you remember whether you talked over matters relating to the supplies of Indians at that time?—A. I do not recollect particularly whether we did or not. I know I was in the habit of mentioning all these things, which I considered necessary to be done.

"Q. Had you any reason to conceal from him any facts in relation to it?—A. None at all."

On page 33:

"Q. You say you followed the custom of the office in regard to purchasing in open market; has or not that been the uniform custom of the Indian Bureau, extending back for many years, to your knowledge?—A. So far as my information goes, they have always done that every season.

"Q. Have you, in any particular, departed from the custom and usages of the office in executing the law?—A. I simply followed the custom of the Department in every respect. There are a good many things it is impossible for us to advertise, and which we must purchase in open market, or we cannot get along in the administration of the Indian affairs."

And again:

By Mr. SARGENT:

"Q. Can you give any reason why an advertisement for beef could not have been made on the 15th of July last, to be awarded within ten days or two weeks, or any later time before the 10th of August, when this contract was extended?—A. As I have said, I was personally very much occupied after the passage of that bill in getting the many appropriations provided for into shape for the purpose of making them available. Aside from that, my whole attention was directed to the purchase of the goods. These Indian delegations had been here urging us to furnish them with goods, and subsistence had to be supplied temporarily without waiting for advertisement.

"Q. The subsistence was to be provided for September; what prevented contracts

under advertisement for these goods before that time?—A. Nothing, except that I was in New York nearly all the time engaged in buying annuity goods.

"Q. Were you gone three months?—A. Nearly two months.

"Q. Was any one acting as Commissioner?—A. Mr. Cady was acting as Commissioner.

"Q. Was there anything to prevent his advertising?—A. No, sir.

"Q. Then I understand you to admit that you neglected your duty in not advertising yourself, or giving him orders to advertise?—A. I did not give him orders for the reason that my attention was entirely engaged in New York, as I have stated."

With regard to the statement of the Commissionor, that the Secretary knew all about the contracts being made, the Commissioner adds to his answer, page 109:

"I do not want to say on the record that he was aware of the whole of it, but that he was aware generally of the transactions which resulted in the contract."

WAS THE CHAIRMAN CONSULTED?

The chairman will remember that this question of consultation with the Secretary was deemed of such importance by the Commissioner that he was unwilling to rest it upon his own sworn statement, and he insisted upon the Ex-Secretary's being called, although it was urged upon him as involving General Cox in great personal inconvenience.

I think if anything were wanting in this case to show the faith the Commissioner felt in the uprightness of his own conduct, and the belief that the Ex-Secretary would corroborate him in this important matter, it is to be found in this circumstance, that his personal presence was insisted upon by the Commissioner. That faith was further tested in putting him upon the witness stand without previous consultation or knowledge as to what he would testify to. I shall not now dwell upon the disappointment the Commissioner felt upon reading the deposition of his late chief, and finding that he denied all knowledge of the contract made with Mr. Bosler. The Ex-Secretary says, page 76:

"My impression is that somewhere about that time General Parker stated, as a fact, that he was obliged, as Indian Commissioner, to make some temporary arrangements to get some supplies between the termination of the arrangement with the Commissary Department and his issuing of his advertisements. But there was never any consultation with regard to contracts further than such general statement as that."

But the following question was put directly to the Ex-Secretary, and his answer is very distinct and very emphatic, and, as I have said, was very disappointing to the Commissioner, for it seemed to raise a question of veracity between the head of the Department and the head of the Indian Bureau. I read the question and answer:

"Q. Were you consulted with reference to a contract made on the 17th of June, 1870, prior to the passage of the appropriation bill, made with James W. Bosler for the supply of a large amount of beef, bacon, salt pork, flour, coffee, sugar, salt, soap, and tobacco, to be delivered on the Missouri River; a contract made without advertisement or competition?—A. In reference to any contract with Mr. Bosler, I can say I never heard of or saw the name of Bosler until this investigation commenced, and consequently I was not consulted in regard to any contract with him."

It would have been unfortunate, indeed, had this very important subject remained in this attitude. It would have cast a suspicion over the whole of the Commissioner's testimony, and inevitably left the impression that he had purposely concealed from his chief the making of this contract with Mr. Bosler, and that would have thrown a cloud over the whole case. Those who know the Commissioner well would have believed the Secretary mistaken; but others would have believed the Commissioner mistaken.

But, Mr. Chairman, happily for the truth, at the very last moment, a link in the chain of testimony was discovered, and is in evidence, which relieves this question of all embarrassment, and fully corroborates the Commissioner. Not only that, Mr. Chairman, but it tends strongly to establish the truth generally of the statements made by the Commissioner in regard to his conduct in this matter. The fact is, he was the moving spirit from first to last, and it is not improbable, therefore, that he would remember more accurately the facts than would his chief. It is only to be regretted that his chief did not speak more guardedly in relation to a matter about which he was fixing the gravest responsibility upon an important officer of the Government. I have read from General Cox's testimony. It will be seen that he declares that he never saw or heard of the name of Bosler, or any contract with Bosler, until this investigation commenced, and, consequently, was not consulted in regard to any contract with him. And he repeats this statement on page 78, that he had no knowledge of the contract with Mr. Bosler, and never heard of Bosler's name. The whole spirit of his testimony seems to cast blame upon the Commissioner in this regard.

Let us, then, Mr. Chairman, see how the truth confronts error. I read from the correspondence to be found on page 159:

"DEPARTMENT OF THE INTERIOR,
"OFFICE INDIAN AFFAIRS,
"*Washington, D. C., June* 18, 1870.

"SIR: I have the honor to state that arrangements have been made by this Bureau with James W. Bosler, esq., for the delivery of certain subsistence supplies for the use of the Indians on the Yankton, Whetstone, Cheyenne, Crow Creek, and Grand River reservations. Among these supplies there will be a quantity of beef, and the cattle will have to be driven to the different reservations, where they are to be slaughtered, and the beef issued to the Indians. There will doubtless be considerable risk to the contractor in transporting these cattle, owing to the wild and unsettled condition of the country through which they will have to be driven; and, in view of this fact, I respectfully recommend that the Secretary of War be requested to furnish Mr. Bosler with suitable escorts, from Forts Randall and Sully, to the respective reservations, whenever he shall require them.

"Very respectfully, your obedient servant,

"E. S. PARKER, *Commissioner.*

"Hon. J. D. COX,
"*Secretary of the Interior.*"

"DEPARTMENT OF THE INTERIOR,
"*Washington, D. C., June* 21, 1870.

"SIR: Arrangements have been made by the Indian Bureau with James W. Bosler, esq., for the delivery of subsistence supplies for the Indians on the Yankton, Whetstone, Cheyenne, Crow Creek, and Grand River reservations.

"As beef cattle are included in the supplies, which are to be driven to the points above named, I have the honor to request that the contractor may be furnished with suitable escorts from Forts Randall and Sully to the respective Indian reservations, whenever he shall require them.

"Very respectfully, your obedient servant,

"J. D. COX, *Secretary.*

"The Hon. SECRETARY OF WAR."

"WAR DEPARTMENT,
"*Washington City, July* 11, 1870.

"SIR: Referring to your letter of the 21st ultimo, I have the honor to inform you that instructions have been given to the commanding officer at Fort Randall, Dakota Territory, to furnish an escort from that post to Fort Sully, Dakota Territory, to James W. Bosler, for his train of stores and herd of cattle intended for the Indian service, and that the commanding officer at Fort Sully has been directed to furnish an escort from that post to the Yankton, Whetstone, Cheyenne, Crow Creek, and Grand River Indian reservations.

"Mr. Bosler should be notified to apply to the commanding officer at Fort Randall whenever the escort is required, and should also be informed that, owing to the small garrisons, it will not be practicable to furnish more than one escort from each post. The trains and herds must, therefore, be concentrated before leaving Fort Randall.

"Very respectfully, your obedient servant,

"WM. W. BELKNAP,
"*Secretary of War.*

"The Hon. SECRETARY OF THE INTERIOR."

I think I need make no comment upon this conflict further. It can hardly be possible that Commissioner Parker said anything short of the truth when he testified that the Secretary knew all about the matter. The correspondence is definite, both as to the manner in which the emergency was being met and as to the name of the contractor; and I think it must follow that the Secretary was mistaken, and the Commissioner right. I read from General Cox's testimony, page 79:

"Do you say that the Indian Bureau has never made purchases without advertising; that the head of the Bureau has never exercised the discretion of making purchases to meet emergencies according to the view that he might take of them?—A. That is not what I have said.

"Q. I do not understand you to say, do I, that the only form of contract which the Commissioner makes to meet these emergencies, is a contract to be void in case an appropriation act is not passed?—A. We are now speaking of contracts made where there is no appropriation bill passed. Where there are appropriations made for trifling amounts, the agents have often been authorized to make specific purchases. As when an agent is not in communication with the outside world, that is an emergency. I have supposed the power existed, and the office has exercised it. My familiarity with the office is not great enough to say how far they have gone. But I was speaking of large contracts for large amounts of supplies made without the usual forms.

"Q. Would there be any difference in regard to the duty ot the Commissioner to provide for the emergency in the case of the supply for a hundred Indians, or ten or fifteen thousand; would not his action be the same, except proportionately large in one instance over the other? The quantity of supplies he would have to furnish under an emergency would not affect the question if he had to act, would it?—A. Of course it would only affect the caution with which he would proceed. Every man exercises more caution in great matters than in small ones, and persons often exercise a discretion in small matters that they might not in great ones. The question is simply what is best to do in the emergency.

"Q. Then the Commissioner would have to determine that question for himself, or no one could in that matter?—A. Whoever the responsibility is upon must determine it for himself. In the larger matters of the Bureau we expect, of course, more consultation with the head of the Department or with the President than in little ones. If a matter should arise wherein the action of the Bureau might terminate in a war or not, although the responsibility might be with the Commissioner, yet we would expect a greater amount of caution and more consultation than in a less important measure."

By Mr. BECK:

"When such emergencies arose as required the action of the President to meet them, of which you have heretofore spoken, how did he usually meet them, by calling upon the Army or the Indian Department to meet them—for supplies, I mean?—A. Always, before the close of the last fiscal year, he had called upon the Army, because there had been a specific arrangement made with the Army that it should aid in supplying the Bureau. At this time, my impression is that General Parker's embarrassment arose out of the fact that the Commissary Department of the Army had notified him that they could no longer continue the arrangement. That was the basis of his trouble.

"Q. Did the President, so far as you know, meet these difficulties through the Army?—A. Yes, sir; we had had no case before us in which there was any difficulty before. We had always called on the Army, and got the supplies from them. But if the Army were to be left out of the account, of course, then the arrangement would have to be made upon another hypothesis, and that was the supposition, I understand, that existed—that the Army was to be left out of the case; that it declined to make the supplies."

Leaving the effect of the testimony and the correspondence which I have given, to be determined by the committee, I desire to say a word in regard to the Commissioner's not advertising immediately after the appropriation bill passed, so as to avoid the necessity for extending the contract, as he found himself obliged to do in August.

The testimony shows the Commissioner absent during the two or three months following the passage of the appropriation act. The little supervision of the office which he was able to give was done by telegraph and by correspondence; and it was very natural, and certainly not censurable, that he should dismiss to some extent, from his mind, the details of the office at Washington.

Further, it appears that there was an acting Commissioner in charge, who not only had power to take steps to advertise, but whose duty it was; and if any one is to be blamed in this matter, it is Acting Commissioner Cady, and not General Parker. The responsibilities and duties of the office devolved upon Mr. Cady, to the same extent as though he had been Commissioner, and the trust reposed in him as acting Commissioner could well extend to the matter of conducting whatever duties might devolve upon him.

Now, the Commissioner testifies that he was telegraphed to by the Secretary upon some business connected with the office, to return to Washington, which he did about the 9th of August, and then it was when he first discovered that the matter of advertising had been neglected, and then it was that his mind was made to face the question as to whether the provision made in June for supplies would be sufficient to ward off danger until advertisements for proposals could be published. And he determined, upon the facts then before him, that an extension of Mr. Bosler's contract or a new one with some other person was necessary. He therefore took the necessary steps, and on August 10 he called upon Mr. Bosler to furnish additional beef. I read from his letter. The Commissioner says, (p. 147 :)

"It being exceedingly doubtful whether, under any advertisement for supplying the Sioux of Dakota with beef and flour, they can be furnished in proper season to prevent a deficiency, I have to request that you will at once supply 1,500,000 pounds, net, more beef, to be distributed at the various agencies on the Missouri River, in such amounts as shall be hereafter designated to you. Said beef will be paid for at the same rates per pound as is provided in your contract with the Indian Bureau, dated June 17, 1870. This beef must all be on the hoof, and of as good quality as was furnished under your contract, and must all be delivered at the several agencies on the Missouri River on or before the 15th day of October, 1870."

The letter gives the reason for making the contract, and the Commissioner must stand or fall upon the wisdom of his action as further explained in the testimony.

While in Washington, at this time, he gave instructions with regard to advertising;

and we find, August 13, Acting Commissioner Cady addressed a letter to the Secretary informing him that the Indian Office was about advertising for proposals for subsistence, &c. And, August 16, the Secretary replied authorizing the advertisement, and upon the 26th of the month the advertisement was published; and upon the 17th of September following, the contract for beef was let to Mr. Morrow. See Appendix, p. 146–7.

Now the contract of June was intended to cover supplies for sixty or ninety days; and the contract of August, as to beef, covered about the same length of time. The testimony is that the supplies were exhausted at most of the agencies before Mr. Bosler was able to deliver under his first contract; and at some of the agencies, the supplies under that first contract were about exhausted by the time the deliveries began under the extension of August. (See p. 29.)

And, whether the arrangement as to price was a wise one or not, certainly the developments of this trial show that the arrangement as to bringing supplies forward in time to meet the emergency was a wise one. There is one circumstance connected with this question, however, which deserves to be noticed, and as to this I think the Commissioner made a mistake.

It will be recollected that among other agents who were urging on the Commissioner the necessity for supplying these Indians, after the commissary contract expired, Major Poole, the agent at Whetstone, was most urgent. He had been at Washington with Red Cloud and other of the representative Indians, and knew all about the necessities of those agencies. While returning, and on his way to his agency, he telegraphed, June 18, to the Commissioner, "The supplies for Indians at Whetstone agency will be entirely expended by July 10, 1870; all the time will be required to forward more," (p. 140.)

To which the Commissioner replied June 18, "arrangements have been made for subsistence for Indians at Whetstone. The supplies will probably be there early in July," (p. 140.) The arrangements were embraced in the Bosler contract.

Major Poole also wrote the Commissioner the same day he telegraphed, urging immediate steps to forward supplies, (page 141.) Four days after this, however, Major Poole took the responsibility of receiving from the commissary contractor a supply of cattle for three months; and on June 22 telegraphed the Commissioner as follows: "I have enough cattle on hand to last three months. Will the Commissary Department furnish the other supplies? Your answer to this will guide me in closing up my papers with that Department," (p. 142.) To which Commissioner Parker replied the same day: "The Subsistence Department will furnish no supplies after 1st proximo. Other arrangements have been made," (p. 142.) When Mr. Bosler came to make his delivery of beef at Whetstone, according to the contract, Major Poole, having supplied himself upon his own responsibility, as we have stated, declined to receive them without further instructions. Mr. Bosler insisted upon the cattle being received, as the contract had been made; and he relied upon the Department keeping faith with him. Instructions then issued, after a considerable correspondence, directing Major Poole to receive the cattle due under the Bosler contract at Whetstone, although the Department first endeavored to have Mr. Bosler deliver cattle at higher points on the Missouri, instead of at Whetstone. The correspondence upon this subject will be found on pages 142, 143, 144, 145, and 146.

This made a double supply for the time at Whetstone, and although Major Poole testifies that it was no detriment to the Indian service, (p. 207,) an effort has been made by the prosecutor in this case to attach to this transaction some improper motive on the part of the Commissioner. But it would seem to me that no such motive could attach, when he was merely carrying out the terms of the contract made previously, and when the embarrassment which arose was through the fault of one who acted upon his own responsibility, without the knowledge of the Commissioner, and after the contract had been made.

It is in this connection, Mr. Chairman, that I desire to mention a step taken by the Commissioner which I think was a mistake. It is this: When he came to extend the contract with Mr. Bosler, in August, he issued instructions to the various agents along the Missouri River to receive the cattle provided for by the extension contract of August, and, among others, he directed that an installment of this beef should be delivered and received at the Whetstone agency. It was at this agency, and this one only, where there had been an overlapping of supplies, as I have just explained. It was not necessary, therefore, at that time to make provision for the Whetstone agency. But the fact as to this surplus at that agency escaped the Commissioner's attention at the time, and hence his action, which may be said to have been an oversight or mistake. He admits this, and can only say in explanation what I have said. That such a fact should escape his attention is not very remarkable; and a mind which would attribute to him any impure or improper motive, I think, must do so without giving due weight to the circumstances, which might very naturally bring about such an oversight; besides, no detriment to the service followed. His attention, however, was called to the fact later; and when he came to provide for the delivery of beef, under

the Morrow contract, he made the time of delivery at the Whetstone agency the 1st of January, or about the time the supply of beef would be exhausted at that agency.

That his conduct in this matter was the result of any collusive understanding with Mr Bosler, is not to be admitted for a moment. All the circumstances connected with the transaction repel any such inference. Commissioner Parker testified that he had no intention of giving Mr. Bosler the benefit of an extension of his June contract, and that such a thing never entered his mind as extending that contract, until about the time he found it necessary; and of this Mr. Bosler had no knowledge whatever until he received his letter of authority to furnish the supplies.

Mr. Welsh has attached a great deal of importance to the fact that the beef contracted for in June was to have been delivered in installments, of July 15, August 1, and September 1; and that because instructions issued afterward directing the agent to receive the cattle at one time, therefore there must have been some collusion or some bad motive on the part of the Commissioner. Now the Commissioner explained fully that in talking with Mr. Bosler about this contract, he desired that the cattle should be delivered immediately, and at one time; and it was because Mr. Bosler felt it to be doubtful whether he could possibly find cattle in that country at that time in sufficient quantities to be able to do so, that he asked to have the contract made so that he would not be responsible for a breach of it, in case he could not make the immediate delivery of all the cattle. The object of the Commissioner was to get some supplies forwarded at the earliest possible moment, and as there was no particular necessity for an immediate delivery of all, he acceded to Mr. Bosler's request. But when Mr. Bosler found that he would be able to make his purchases in such quantities as to enable him to deliver them at one time, he asked authority to make such delivery, and as that complied practically with the Commissioner's original intention and wish, instructions were accordingly issued. This is fully explained by the Commissioner and Mr. Bosler in their testimony.

But in this very natural conduct of two men engaged in a business transaction, the one buying and the other selling, Mr. Welsh sees only some secret and covert purpose to serve the pecuniary interest of the contractor, to the detriment of the United States. But was it so? He assumes that it involved the necessity of employing herders. So it did to some extent; but not to any great extent, as not many more men are required to take care properly of the number delivered than would have been necessary if they had been delivered by installments. And, furthermore, the Commissioner testifies that additional herders involved little or no expense to the Government, as they were generally taken from among the Indians and employés of the Government at the posts.

But this seems to be a trifling matter, and not worthy to be brought forward in an effort to fix upon Commissioner Parker maladministration of his office.

Upon this question of personal gain to the contractor in this delivery, I remark, further, the testimony is that cattle driven from the Pacific Railroad up to those posts would lose much in weight in the driving, and if permitted to graze a length of time before delivery, they would have picked up what they had lost, and that this would about equal, if not exceed, the cost of herding and care. But I am not disposed to follow this matter; it does not seem to me important. This committee will hardly impeach an officer of the Government on trifles such as these.

THE MORROW CONTRACT.

It is in evidence, Mr. Chairman, that Mr. Bosler, who had this June contract, and the contract of August, also became interested subsequently in the contract for beef supplied under what we understand as the Morrow contract. And an effort has been made to cast suspicion on his contracts of June and August, by connecting him with the contract with Mr. Morrow, made September 17. What the full effect of that connection between Morrow and Bosler can be in this case, it is impossible for me to conjecture, although I have elsewhere endeavored to do so in the argument. I speak of it, however, in this connection, to separate it, once for all, from any of the previous transactions, on account of which an effort is being made to censure Commissioner Parker. Commissioner Parker did not know, until this investigation began, that Mr. Bosler had any connection whatever with the Morrow contract. He has testified that no part of his action in relation to the early contracts had any connection with, or the slightest bearing upon, the Morrow contract, made in September.

I think I might safely assume, then, that the Morrow contract must be left entirely out of view, in considering the effect of Commissioner Parker's conduct, with reference to the making of his contracts of June and August.

IRREGULARITY IN PAYING VOUCHERS.

Perhaps I might as well here, as elsewhere, notice another matter of complaint made by Mr. Welsh, with regard to these contracts with Mr. Bosler; and that is, that there was great irregularity in the payment of the vouchers, and that this payment was made in defiance of the usual checks necessary to secure honesty upon the part of the

contractor. I think this charge groundless; certainly it is unproved. The evidence is that payments were made in the ordinary manner, upon the receipts of the agents at the various agencies, showing that the amounts of supplies had been delivered. These receipts give quantity, weights, and all the facts necessary for administrative action at the Indian Bureau. The vouchers were all submitted to the auditor, and by him passed to the comptroller, who finally ordered payment. The system may be a bad one; the checks may not be sufficient; there may not be ample protection to the Government; but it is the system which has prevailed for many years, and still prevails, not only in the Indian Department, but in other Departments of the Government. Responsibility must rest somewhere. Faith must be reposed in officers whose duty it is to act. Now the persons who received these supplies were military officers, acting as agents, under orders of the War Department. When the accounts came on to Washington with receipts duly signed by them, the Commissioner regarded that as sufficient to warrant his office in recommending payment. What he did in the matter of Bosler's vouchers he has done in hundreds of others, and is still doing in others. There was nothing, then, unusual in the method adopted for the payment of these vouchers.

A specific charge is made in this connection, by Mr. Welsh, in the matter of paying vouchers upon the receipts given by L. H. Roberts, the acting agent at the Cheyenne agency. The correspondence, found in the Appendix, (p. 147, 148,) and the testimony of Mr. Roberts, (p. 33,) explains this fully. The agent, Major Randall, was absent, and had left Dr. Roberts, who was surgeon of the post, in charge, and had given him written authority to act in his absence, and it was during his absence that the cattle arrived and a receipt for them was given. The scales being out of order, Dr. Roberts called to his assistance some of the military officers, including the acting commissary, who were familiar with the method of averaging cattle, and they arrived at the weights in that manner, Dr. Roberts giving a receipt accordingly.

When called to act administratively in this matter, the Commissioner gave to Dr. Roberts's receipts the same credit and faith which he had given to the receipts of other agents, and passed the vouchers accordingly. How he could have done otherwise, in justice to the contractor, I cannot perceive. I know it is in evidence that after Major Randall's return, he fixed up the scales again and weighed what he thought an average of the cattle, and found that Dr. Roberts had certified to a larger weight than the scales showed. But how this was so, Dr. Roberts explains in his testimony, and it also appears in the correspondence, to which I referred. I think, Mr. Chairman, I may safely leave the matter of complaint with this statement.

Possibly I ought not to forget to notice here that, when Major Poole was recalled, a specimen of sugar was handed to him, with the view, I suppose, of establishing the truth of Mr. Welsh's charge, that the sugar furnished by Mr. Bosler was what he calls "molasses sugar," and of inferior quality. (See testimony, p. 97.)

It was not claimed by Mr. Welsh that this was a specimen of the identical sugar delivered; but the witness was called upon to say whether it was similar to that, about which he seemed not to be very clear; nor did he know whether the sugar which Mr. Bosler delivered was made from molasses or not; or that the sugar presented by Mr. Welsh was so made. He was not an expert, and could not give an opinion. He said, however, in that connection, that the sugar delivered by Mr. Bosler was the best kind for the Indians—the kind which they preferred. But whether Mr. Bosler charged more than it was worth, is not proved; and in the absence of such proof, I suppose it not unfair to presume that it was sold at a reasonable price. Certainly no presumption can be raised against the reasonableness of the price, for this is a matter of proof.

Thus, Mr. Chairman, melts away another of the very grave charges presented by Commissioner Parker's prosecutor. I believe that, with this exception, no attempt was made to impeach the quality or prices of any of the articles furnished except beef and flour, and here only as to price, although Mr. Welsh embraced among his sweeping allegations something with reference to tobacco as well. But this he has abandoned, as he has abandoned other charges, without bringing forward any proof to sustain them.

There are, Mr. Chairman, two depositions in the record which may, in the mind of the committee, have some bearing upon the conduct of Commissioner Parker, and this is, perhaps, as proper a place as any to notice them. I refer to the depositions of John Finn (p. 99) and John T. Baldwin, (p. 105.) It will be remembered that when Commissioner Parker was being examined by the committee, he was asked in regard to a conversation said to have taken place between him and Finn, as follows:

"Q. On the 16th of June, or any time shortly before making this contract, did you have a conversation with a man by the name of Finn, of St. Louis, and a man by the name of Baldwin, in which they asked you if you intended to make any such contract, desiring to bid for it if you did; and do you recollect that you replied that you did not intend to make such a contract?—A. I recollect that Finn was here a great deal last winter and summer, and probably about the time you mention he may have asked me again. He inquired at various times in regard to furnishing beef at Whetstone. I do not recollect giving him any such reply as you suggest.

"Q. Did you not state to him that you did not intend to make such a contract at any time; and that you could not make any such contract, because the appropriation bill had not passed?—A. I have no recollection of any such conversation."

Subsequently, Mr. Finn and Mr. Baldwin were called to testify as to any conversation they had with the Commissioner. I cannot believe that the object of the committee was to discredit the testimony of Commissioner Parker by laying a foundation in this manner. I am bound to attribute to the committee, on the contrary, the more liberal motive of arriving at the facts in relation to the matter. Let us see, then, as to the effect of the testimony of Mr. Finn. I believe no one accustomed to weighing testimony would read the deposition of Finn and of Baldwin, and the letter of Finn proposing to furnish certain supplies, (to be found in the record, p. 108,) without rejecting his testimony as valueless. I call attention to certain points in connection with this deposition, and shall endeavor to do so as briefly as possible. In the first place, while the witness nowhere states that he made a proposition to furnish cattle to all the agencies along the Missouri River at four and a half cents a pound, and while no inference to that extent can be derived from his testimony fairly, yet it may be that such inference will be drawn from his testimony. He says, on p. 99:

"I offered him Texas cattle at 4½ cents a pound, and American cattle at 6 or 6½ cents a pound, gross; I cannot say which."

Further, he says:

"I told him I had cattle at the Winnebago agency, and that if he did not consider them worth 4½ cents a pound, I would take less for them; that I wanted to sell them."

In reply to a question whether he had the cattle on hand, he says:

"No; I could not fill a large contract with the cattle I had on hand, but I could fill any contract; I could get the cattle."

On page 100, in reply to the question: "Did he refuse to accept your proposition?" he answers: "He did."

Mr. Finn had a contract previously, or at the time, which was then about expiring, to furnish supplies to a limited extent under a contract with Superintendent Janney, at the Winnebago agency, and it is more than probable that a continuation of this contract was desired by Mr. Finn, although upon this point he is as indefinite as he is with regard to making any distinct proposition.

When Mr. Baldwin was called and was asked as to what passed in that conversation between Mr. Finn and Commissioner Parker, (p. 106,) he makes no mention of any proposition on the part of Finn, with regard to furnishing supplies, further than to continue to furnish them after the 1st of July, as he was then furnishing at the Winnebago agency. It will be remembered this agency was not included among those supplied by Mr. Bosler. After stating what transpired in this conversation, he was asked by the chairman this question:

"Was anything said by Finn with reference to a desire on his part to have another contract?—A. I do not recollect anything."

On cross-examination of Mr. Finn, (p. 101,) he is asked:

"Q. Did you communicate the proposition you made to General Parker in writing?—A. I did.

"Q. And sent it to the Department?—A. Yes.

"Q. Was that the time you had this talk with him?—A. Yes.

"Q. That letter contained your proposition?—A. Yes."

If we turn to that letter, (p. 108,) we find that the proposition which he made was for the supplying of cattle at the Whetstone agency. The letter is as follows:

"WASHINGTON CITY, D. C., *June* 9, 1870.

"SIR: I have the honor to state that I have a large number of American and Indian cattle, left over from my late contract at the Winnebago Indian agency, which I propose to sell to the Indian Department for the use of the Sioux Indians at the Whetstone agency, at the following prices, viz: American cattle from 4 to 7 years old, at 6½ cents per pound, gross weight; Texas or Indian cattle at 4½ cents per pound, gross weight; said cattle to be delivered at Whetstone agency or reservation, as may be required, until next contract is awarded.

"I am, sir, very respectfully, your obedient servant,

"JOHN FINN.

"Hon. E. S. PARKER,
"*Commissioner of Indian Affairs.*"

Now this letter is dated June 9th, and Mr. Finn says (p. 101) that it contained the proposition which he made to Commissioner Parker, and to which he alluded in his testimony, yet he swears that his conversation with, and his offer to supply beef to, the Commissioner, was on the day Bosler's contract was let, namely, June 17. He was mistaken then, in point of time, for he does not claim to have made any other proposition after June 9th, for he says that the proposition which he made to the Commissioner

was embraced in that letter; and if this is true, he could not have made any proposition subsequently. Indeed, he says (p. 101) that the other proposals which he made were previous to the letter, but what they were does not appear. In this letter he represents that he has a large number of American and Indian cattle left over from his contract at the Winnebago agency. In his testimony, (p. 101,) he says he had three or four hundred head, altogether, consisting of cows and steers, and common run of cattle. His letter represents that he had a large number of American cattle, as I have stated, yet in his testimony (p. 100) he says there were no American cattle in that country. Upon being asked whether anything was said about the condition of the Indians or the necessity of furnishing beef to them, he replies, (p. 100:)

"Yes; I told him I had heard from the agent at Whetstone and from other reservations, that the Indians were in great need of stock, and asked him if he was not going to buy them. He told me he would not do it. I asked what he was going to do in regard to supplying these Indians. He said the Indians would protect themselves the same as they did previously; that they could take to the plains and subsist the best they could."

This is the only testimony given by the witness in regard to the interview with Commissioner Parker which is in any way corroborated by Mr. Baldwin. Mr. Baldwin says that the Commissioner told them "that the Indians would have to hunt, or to do as they had been doing before they were getting any supplies from the Government." And also the Commissioner remarked "that he could not make any arrangement for supplies until there was an appropriation by Congress."

I would not say that both these witnesses have purposely misstated this conversation, but as to the Commissioner's seriously expressing to them the opinion that the Indians would have to return to the plains and subsist as best they could, when the Commissioner's mind is shown by the whole record to have been bent solely to the purpose of avoiding any such result, would make the statement seem very improbable.

Now, in point of time, the letter in evidence of John Finn shows that the conversation did not take place subsequent to June 9, and possibly the Commissioner may have, at that time, told these gentlemen that there was no appropriation, and that he could not make arrangements for supplies. But this seems improbable, for the question must have been in his mind at that time, as to how provision was to be made to supply these Indians, although his final purpose was not reached until June 17. The Commissioner had no recollection of any conversation with these gentlemen upon this subject, and hence no explanation appears in the record as to what was in his mind at the time in relation to the matter. We are left only to determine upon the probabilities of the case; first, as to whether the conversation is likely to have occurred; and second, if it did occur, what effect it would have upon the case. The Commissioner has told you that he talked with persons at various times about that date, as to the prices of beef and supplies, and in those conversations it is not improbable that he did not disclose to the persons with whom he conversed what his purpose was, and how he proposed to meet the exigency which he felt was then upon him. He was bound to judge of the character of the men with whom he had in view the making of any contract, and his judgment with regard to individuals was only an incident in connection with the subject, the whole of which rested with him entirely. The great thing to be accomplished at that time was the immediate supply of all the agencies, and the proposition simply to supply one of the lower agencies did not meet the case, and the Commissioner could well decide in his own mind that it would be better to contract with some person whose responsibility was well vouched for to him, who would undertake to supply all the agencies at once.

In connection with the testimony of Mr. Finn, in which he says the letter contained his proposition, (p. 101,) in reply to the question, "Have you the answer to it?" he says, "No, sir, the letter was sent back to me."

He evidently intended to create the impression that the Department sought to rid itself of the evidence that such a proposition was on file about that time. But in this he overreached himself, as he did in others of his statements. For we find, (p. 108,) by the testimony of Mr. McGraw, clerk in the Indian Office, that the original letter was written by this clerk, at the dictation of Mr. Finn, and was signed by him in his presence; and it is the original letter which was introduced in evidence, and brought to the committee from the files of the Indian Department.

There is nothing, Mr. Chairman, in connection with the developments made by this testimony which can cast any suspicion upon the good faith of the Commissioner in making this contract with Mr. Bosler. I have no doubt he weighed fully whatever propositions came from Mr. Finn, and whatever his reasons were, (and I can conceive many good ones for not splitting up the matter of supplying these various agencies among persons in whom he might not have the utmost confidence,) we are bound to conclude that he acted in the best interests of the service, as he then regarded the matter.

Mr. Baldwin also testifies that he went, in company with Mr. Finn, to see if the Commissioner did not want flour for the Indians; but he made no direct proposition with

regard to furnishing flour, either as to price or quality. He says the Commissioner told him he was not prepared to make any contract at that time for flour, but that when the appropriation bill passed he would advertise, and would send the witness a copy of the advertisement. The testimony of Mr. Baldwin shows what he had in his mind, although he did not communicate it to the Commissioner, was, the furnishing of the flour delivered at Council Bluffs. But the Commissioner's idea was to have whatever supplies he concluded ultimately to purchase, delivered at the agencies. And it was much better and safer to rely upon the person who took the contract for all the supplies, to agree also to deliver them. It is probable the Commissioner had not, at that time, made up his mind fully as to how he was to meet the emergency, and I have no doubt he had daily conversations with various persons with regard to the matter, to none of whom did he disclose his plans. Mr. Baldwin was the owner of one mill, and the requirements of the Bureau for supplies of flour, as the testimony shows, stripped all the mills in that region in order to meet the demand. To have purchased directly from the millers, the Commissioner would have been obliged to open negotiations with many different persons, and this he had neither the time nor the opportunity to do.

But, I suppose, Mr. Chairman, that the real object of this testimony was to establish another link in the supposed chain, which would tend to involve the Commissioner in a corrupt bargain. If there were a large number of other suspicious circumstances unexplained, this might be considered in connection with them, and have some weight. But where there is nothing elsewhere in the record, as I think has been shown, to fix any bad motive upon the Commissioner, it cannot be that upon this testimony alone so grave a charge can rest.

The matter of purchases of flour I have examined fully in another part of the argument, and although the Commissioner may have told Mr. Baldwin originally that he intended to advertise in the purchase of flour, it has been fully shown that in determining subsequently to purchase quietly, he acted not only wisely, but saved a large amount of money to the Government. His determination in the purchase of beef has also been fully explained, and I think I may leave the matter safely where it now stands.

I have thus attempted, Mr. Chairman, to group in this connection the various circumstances connected with the contracts in question, which would seem to need explanation.

I have tried to present the facts, as they would occur to any reasonable mind, and have endeavored in this part of the argument to overlook nothing, however grave or however trivial. And I think it will be found that nothing is omitted in this connection which is not elsewhere in the argument.

PURCHASES FOR OSAGE INDIANS.

I believe that no dereliction of duty has been charged upon Commissioner Parker by Mr. Welsh with regard to his purchase of certain presents to be sent to the Osage Indians; yet much time has been spent in investigating that matter. I suppose the discovery of whatever there may be in this transaction is due to the zeal of Mr. Vincent Colyer, who has been a very active coadjutor of Mr. Welsh, in urging forward this prosecution, and has given the aid and benefit of his valuable suggestions and counsel throughout the entire investigation. It is due to Mr. Colyer that this matter in his special charge should not be entirely overlooked. What, then, does it amount to? I quote from Commissioner Parker's testimony:

"Q. Explain about the purchase of the Osage presents in New York City, after the commissioners had left there, at the time they made their purchases of the annuity goods—how you came to do it, and what the purchases were?—A. On the 15th of July last, Congress passed an act for the removal of the Osages from their lands in Kansas to the Indian Territory, and required the assent of the Indians to the provisions of the bill. It was on consultation with Secretary Cox that we thought proper, when the Indians were convened for the purpose of acting upon the matter, that we should furnish them subsistence while attending the council, and give them a small amount of presents in the shape of goods, and, after the council had closed, have these goods distributed. Presents given to Indians who have been convened in council, are generally intended for the chiefs and headmen, and are intended to be of little better quality than those ordinarily supplied, and I gave an order in New York, amounting, I think it probable, to about ten thousand dollars, for a variety of dry-goods, to be distributed among these Indians after the council should have closed their business, for the chiefs and headmen to take home to their families. They consisted of blankets, calicoes, sheetings, and really I do not remember every article I purchased. I have not examined the invoices. I know there were some blankets which, as I understand since, were not acceptable to the members of the Indian commission. I have heard that indirectly from the evidence of Mr. Colyer on the subject. I gave an order to Buckly, Welling & Co., a house in New York dealing largely in Indian goods, for the goods "which I proposed to send out to the Osages. I think I gave the order to them for nearly everything.

"Q. It was stated by Mr. Colyer in his testimony, that the same blankets which had been offered to that commission while there at $6 80, were invoiced at $8. They were scarlet blankets. What have you to say to that?—A. I have not looked at the bills to see whether the statement is true or not. I presume it is. I did not get the blankets of Amidon, Lane & Co., where they saw them, but of Buckly, Welling & Co., though the latter house may have obtained them from Amidon, Lane & Co., for anything I may know.

"Q. When they made their offer at $6 80, how many were to be supplied?—A. My impression is they were to supply something like five thousand pairs of scarlet, some four thousand indigo, and a like number of white.

"Q. How many in fact were purchased for those presents to the Osages?—A. I think pair of scarlet.

"Q. Would there be any difference in the price of 200 pair and several thousand pair, at the same purchase; and if so, to what extent?—A. I have noticed that bidders, as a general rule, have made a difference where they supply a large quantity. Where the supply was small they would be of very nearly what are termed the market-ruling rates—about manufacturers' prices. Where a large number of blankets were ordered, they could generally be obtained at a less price of the merchants than the manufacturers.

"Q. Did you buy at the lowest ruling rates at that time?—A. I did.

"Q. Did the Secretary know about these purchases that were to be made?—A. Yes, sir; he had ordered it.

"Q. Had you any motives in making these purchases of any particular persons—any favorites to whom you wished to extend benefits?—A. Nothing of the kind entered my mind.

"Q. Did or not the commission know that these purchases were to be made?—A. I am not positive. My impression is that I mentioned the fact that presents would be sent to the Osages: but they may have got the impression that the Osage goods were included in the aggregate put down in the advertisement.

"Q. The presents were a separate matter?—A. They were a separate matter. The advertisement quantities were made up from the amounts to which each tribe was entitled as their annual presents."

The order of the Secretary with regard to these purchases is as follows:

"DEPARTMENT OF THE INTERIOR,
"*Office of Indian Affairs, July 22, 1870.*

"COMMISSIONER: I am directed by the honorable Secretary of the Interior to inform you that it is desired to have some presents purchased for the Osages, to be issued to them at the council to be held on or about the 20th proximo, in the country to which they are to be removed; the kind and quantity of the articles to be determined by you.

"Very respectfully, your obedient servant,

"WM. F. CADY,
"*Acting Commissioner.*

"Hon. E. S. PARKER,
"*Commissioner Indian Affairs..*

("Care of Messrs. Buckley, Welling & Co., 370 and 382 Broadway, New York City.")

"It would seem that under such ample authority as this, the Commissioner might safely rest his defense. Yet so much importance has been attached to it, that, perhaps no branch of this investigation fills a greater space in the record. It illustrates to what an extent into minor details of administration, on the part of the commissioner, this inquiry has extended. Let us then examine the length and breadth of this charge. It appears that when these goods were received at the agency, one bale containing 50 blankets was found to be of a different shade of scarlet from the others, and were thought to be inferior in quality. The conclusion was immediately reached that some stupendous fraud was involved in this matter, which ought to be probed to its bottom.

Mr. Gibson, the Indian agent at the Osage agency, immediately wrote Mr. Dodge, at New York, informing him of this discovery. A sample blanket was sent back to Mr. Colyer, the secretary of the commission. Mr. Dodge, of New York, called upon the persons who had furnished the bale of blankets, Messrs. Buckley, Welling & Co., who in turn called upon Messrs. Amidon, Lane & Co., from whom they had purchased them, and all parties waited upon Mr. Dodge, and explained how this bale of imperfectly-dyed blankets had found its way among the goods shipped. It was explained, the witnesses show, to the satisfaction of Mr. Dodge, that the blankets were really as good for wearing purposes as though they had been dyed a different shade. Offers were made by the parties selling the blankets to pay the expenses of returning the bale to New York, and of reshipping another bale to the Indians; but nothing seems to have been done in the matter. No information was communicated to the Commissioner of Indian Affairs with relation to it; and, as he says in his testimony, the first intimation he had of the matter came to him through the testimony of Mr. Vincent

Colyer. Why this complaint should have been concealed from the Commissioner, and reserved for this investigation, is difficult to say; the remedy was a simple one, and could have at once been provided. I do not find that any complaint is made with regard to the purchases generally embraced in these Osage presents. The whole matter of complaint turns upon this bale of forty blankets. Experts have been called from New York City and from Philadelphia. Grave opinions have been expressed with regard to the qualities of certain classes of blankets, manufactured by certain rival houses; and allowing the greatest latitude to the opinions of witnesses, the result of the whole matter, so far as I am able to see it, when reduced to mathematical proportions, is this: that if the Commissioner had known, when he was purchasing these goods, that a bale of dark-red instead of light-red blankets was being sent to the Indians, he could have bought them for 50 cents each less. The mistake he made then, if it was a mistake, amounted to $25, currency, and I do not doubt that, if the matter can ever be brought to his attention officially, or he can ever have an opportunity of calling upon the parties for proper redress, that this $25 will be cheerfully returned to the Treasury of the United States.

But, Mr. Chairman, I would not intentionally suppress anything in connection with this matter. I find among the exhibits a letter of Agent Gibson, which Mr. Colyer may think ought to be considered. How it got into the record I know not, for I suppose the best evidence of its contents or its assertions would be the utterances of the writer from the witness stand. However, the letter is in and it must be met. It is as follows:

"OSAGE AGENCY, KANSAS, MONTGOMERY POST-OFFICE,
"*Tenth Month*, 13, 1870.

"ESTEEMED FRIEND: This day I forward by express to thy address, as per request of Vincent Colyer, secretary of commission, one scarlet blanket, 3-point, and one Mexican blanket; the first as a sample of fifty pair out of two hundred at $8 per pair, sent as presents to the Osage Indians, from the house of Buckley, Welling & Co., New York City, of date August 23, 1870. The remaining one hundred and fifty pair were a grade better. The Mexican blankets are billed at $6 50 apiece. *They are not worth half that money to Indians, as a baby can slip through them without breaking a warp or filling.*

"Very respectfully,

"ISAAC T. GIBSON,
"*United States Indian Agent.*

"W. E. DODGE,
"*Indian Peace Commissioner.*" (P. 162.)

If Friend Gibson were before the committee, it might be interesting to know how "a baby could slip through the Mexican blanket without breaking a warp or filling." I have heard of driving a coach and four through acts of Parliament, but this I always understood to be a figure of speech in which lawyers too often indulge. But now that I find Friend Gibson screening babies through blankets, I am prepared to believe the coach-and-four story.

I wonder if it ever occurred to Friend Gibson that the right thing for him to have done was to report the matter to the head of the Indian Bureau, his immediate superior, and the person to whom all reports of the kind should be made? Or had it been arranged to reserve this delicious morsel for the *coup d'etat* arranged by Mr. Colyer?

It would be unfair to Mr. Colyer not to give his testimony.

I read from page 9:

By Mr. SARGENT:

"Q. Did you see any blankets or other goods in the Osage country of inferior quality—of such quality as would be rejected upon inspection?—A. Yes, sir. We did not see them in the Osage country. They did not arrive there in time, as they ought to have done. We were there three weeks or more negotiating with the Osage tribes, and in the mean time we were waiting for those goods which were to be sent on as presents to the Osages. When the invoices arrived giving the prices of the goods, our attention was called to them by seeing that the price of blankets was considerably higher than the blankets had been offered to us for in New York a few weeks before. We found upon the invoices that there were red blankets there of a certain pattern, style, weight, and number of inches, which were charged at $8 a pair, and which the same house had offered to sell to us in New York at $6 80. Seeing that, we asked Agent Gibson, when those presents arrived after our departure, to see to it that samples were sent on to us at Washington, so that we might see unmistakably that they were the same articles. The samples arrived here a week or two ago, and we found that the blankets which were charged at $8 a pair were the same that had been offered to us in New York at $6 80. We found, also, that the blankets were to be furnished to the Indian department up to the 20th of August. That was the day when we were instructed to report on the Osage grounds to meet the chiefs, and it was understood that those goods were to be there at that time."

Mr. Colyer's testimony is valuable, but it would be more so if it appeared that he saw the blankets when delivered, or was a judge of blankets if he saw them, or had remembered that the offer of blankets at $6 80, embraced some 14,000 scarlet, indigo, and white, and that some of these were of less value in market than scarlet, and that men will be found who could take a contract to deliver 14,000 blankets at a less price each than 200 blankets, or had some knowledge of prices of Mexican blankets, before pronouncing hasty judgment.

Now I beg to read from the testimony of a very respectable gentleman, Mr. Buckley, (of the firm of Buckley, Welling & Co., N. Y.,) through whose firm the awful fraud was compassed which has so aroused Mr. Colyer:

"Q. Look over that bill of goods, and see if you can recollect from the items enough to speak with any certainty as to that being the bill or a copy of it.—A. There are two items here which I can recollect; two bales of Mexican blankets, and four bales of three-point scarlet blankets. My attention was called to them by Mr. Dodge.

"Q. Were those the only items about which you were spoken to?—A. Yes.

"Q. They are the only items about which any question has arisen?—A. So far as my knowledge goes.

"Q. Explain the quality of the four bales of scarlet blankets, and where you purchased them?—A. The four bales of scarlet blankets were purchased by sample from Amidon, Lane & Co., manufacturers and merchants of New York.

"Q. What is the price of those blankets, as stated in that bill?—A. Eight dollars per pair.

"Q. State whether that was the ruling price at that time?—A. Eight dollars per pair is lower than we sold the blankets for as a general thing. We sold those blankets to the Indian Commissioner for $8 per pair. The cost is $8, less 5 per cent. and 5 per cent.

"Q. Is that equivalent to 10 per cent. discount?—A. It is a little less than 10 per cent. It is 5 per cent. off first, and then 5 per cent. off the balance. That was as cheap as we could buy them in the market." (P. 41.)

I now desire to read from Mr. Buckley's testimony as to Friend Gibson's baby sieve, otherwise called Mexican blanket, (p. 42,) which was sold to Commissioner Parker at $6 50 per pair:

"Q. Explain as to the other blanket.—A. The Mexican blanket was complained of as being a loose, slimsy blanket. They were the same blankets that we sold for some little while. They are manufactured by Mr. Dobson, of Philadelphia. They are a blanket that we never had complained of; and in fact we are not able to procure as many bales of them as we had orders for from other parties. We sold them at less than the usual rates. We sold them at $6 50. We paid Mr. Dobson for them $6 25, less, I think, 5 per cent. and 5 per cent. I am not certain in regard to the discount; but I think there were 5 per cent. trade discount, and 5 per cent. for cash."

The witness then explains that the bill of goods furnished by him was at the lowest rates in market at the time; that they were bought by sample, and he supposed all were equal to the sample; that he explained to Mr. Dodge how the mistake occurred; that several thousand blankets can be bought at less each than 200, &c.

Mr. Amidon, of the firm of Amidon, Lane, and Company, merchants, of New York, from whom Mr. Buckley bought, is then called. Mr. Amidon explains how the "bad for color" bale got into the invoice; that he explained to Mr. Dodge to his satisfaction, and says: "I offered to send for that bale at our own expense, and deliver another bale at our own expense, or to do anything that he cared to have done about it;" further, he says: "I think I fully satisfied him that the blanket was a good one, with the exception of the defect in dyeing," (p. 44.)

I quote from his testimony as to price, (p. 45:)

"Q. Were the blankets, with the exception of color, as good for all purposes as the others sent at the same time?—A. Yes, undoubtedly.

"Q. This mere defect in color would not deteriorate the value of the blanket for its use.—A. Not in my opinion. These blankets were very much more serviceable than such blankets ordinarily are.

* * * * * * *

"Q. Examine the item of four bales of scarlet blankets charged in this bill, and state whether the amount charged for them there is the proper price?—A. I see they are charged here at $8 a pair.

"Q. State what relation that bears to the ruling rates in the market at that time.—A. Scarlet blankets then and now were worth a dollar a pound. I am selling them now at a dollar a pound. I sold those blankets to Buckley, Welling & Co., at a dollar a pound, with an extra discount. I am in the habit of selling them goods, as they are large purchasers, at less than I sell to anybody else."

This seemed not to be quite satisfactory to the committee, and Mr. Amidon is asked a further question, which I give, with its answer, (p. 45:)

"Q. Do you say that the blankets bought from John Dobson at $8 a pair were not

superior to the blankets you have described?—A. I think the scarlet blankets were bought from John Dobson at $7 a pair. I bid at $6 80."

Again the witness says, (p. 45:)

"Q. I understand that, in your bid for the 14,000 blankets, there were comparatively few scarlet blankets.—A. I think 2,700 scarlet blankets.

"Q. Would you have bid for 14,000 scarlet blankets at $6 80?—A. No, sir; I meant to convey that impression to you, that I would not have bid for scarlet blankets so low.

"Q. Were you furnishing any scarlet blankets to the trade at that time, August 23?—A. Yes, to the merchants who deal in that article.

"Q. What were the rates then?—A. $8 for that quality of blanket.

"Q. And the Government paid no more than other persons paid at that time?—A. No, sir; no more than I was getting for them from everybody at that time."

Mr. Amidon believes in the Amidon blanket, and hence, when speaking of the merits of his blankets, he is quite direct in his answers. When asked as to the comparative merits of his and Dobson's blankets, he says his are worth as much as the Dobson blanket. In this Mr. Buckley corroborates him, and says among buyers there is a difference of opinion.

Of course, Mr. Chairman, this matter could not rest here. Mr. Dobson was called, and he answers as flatly as Mr. Amidon, but to a different purport. Mr. Dobson believes in the Dobson blanket.

To those who are dealing in blankets, I invite the perusal of this testimony. Possibly they might be able to learn which is the better blanket, but I doubt it, (pp. 68, 69.)

Then comes an expert in the Dobson blanket, Mr. Stewart Wilson, but he never has been able to understand why merchants buy the Amidon blankets at all. He thinks there is nearly a dollar a pair difference between the Dobson blanket, which sells at $8, and the badly-colored blankets of Amidon, (pp. 69, 70.)

Now, Mr. Chairman, I ask again, what does all this amount to? I believe if the Commissioner could make these purchases over again, he might avoid buying a "bad for color" bale, or if he bought it, might save as I have computed it, making fair allowances for exaggeration of witnesses, say $25. He might, too, spare 49 poor Indians the mortification of wearing a blanket of a darker tint than their more fortunate fellows are sporting in. Beyond this I cannot see, except that by calling upon Mr. Colyer to return the one scarlet and one Mexican blanket he is holding on to, he might return them to Messrs. Amidon, Lane & Co., and get credit on account of $14 50, their cost, which would almost cover losses.

But, Mr. Chairman, *de minimis non curantur*. You will hardly take notice of trifles, and this certainly is of that class.

THE BOARD OF COMMISSIONERS NOT CONSULTED.

The Commissioner is charged with violating the third section of the act approved July 15, 1870, in that he did not consult with the board of commissioners as to his purchases of the provisions for the Indians on the Missouri River, and did not call upon them to inspect the provisions delivered. The same charge, as we have already stated, is made with reference to the transportation contract, and the purchase of the Osage presents, and the inspection of bacon at Chicago. I suppose, Mr. Chairman, if we admit that it was the duty of the Commissioner, under the law, to have done what he omitted to do, it ought not to go very hard with him, unless it should be made to appear to your minds clearly that some great wrong or injury to the Government has resulted from this omission of duty. I suppose it is no unusual thing for officers of the Government to depart from the letter of the law almost daily in the administration of the affairs of the Government, and it is only when such a departure results in injury, that the officer is, or deserves to be, criticised. Now, there is nowhere in this record, from first to last, the slightest evidence showing that the result would have been otherwise had the commissioners been consulted. There is nowhere proof that the provisions were inferior in quality or short in quantity. Indeed, it seems to be admitted that both quality and quantity were unexceptionable, except it may be as to one lot of cattle delivered at the Cheyenne agency, where the weights were arrived at by average, the scales being then out of order. But this is fully explained in the testimony of Roberts, (pp. 38, 39, 40,) and by the documentary evidence in the Appendix, pp. 146, 147.

It does not seem to me, Mr. Chairman, that you should conjecture as to results had the board been consulted, in order to arrive at the guilt or innocence of Commissioner Parker in this matter. And certainly, in the absence of proof that the result would have been otherwise had he consulted the board, I cannot see any just ground for censure. But I do not admit that he violated this third section of the appropriation act of July last, and to this I now invite your attention.

ORGANIZATION OF THE BOARD.

This board was appointed by the President under the provisions of the fourth sec-

tion of the act of April 10, 1869, and by the third section of the act of 1870, which Commissioner Parker is charged with violating, is continued under the provisions of this third section, with the powers as conferred upon it by the act of 1869. We must go, then, first to that act to determine what those powers were. Those two acts are strictly *in pari materia*, and it is not possible to determine the powers of the board without construing the two sections together. The act of 1869 placed the board under the direction of the President to "exercise joint control with the Secretary of the Interior over the disbursements of the appropriations made by this act, or any part thereof that the President may designate." Following that act, an Executive order issued June 3, 1869, which will be found on page 80 of the record, the fourth paragraph of that order provides as follows:

"They are authorized to be present, in person or by sub-committee, at purchases of goods for Indian purposes, and inspect said purchases, advising with the Commissioner of Indian Affairs in regard thereto."

Paragraph 5 provides as follows:

"Whenever they shall deem it necessary or advisable that instructions of superintendents or agents be changed or modified, they will communicate such advice, through the office of the Commissioner of Indian Affairs, to the Secretary of the Interior; and in like manner their advice as to changes in modes of purchasing goods, or conducting the affairs of the Indian Bureau proper."

Paragraph 7 provides as follows:

"The usual modes of accounting with the Treasury cannot be changed, and all expenditures, therefore, must be subject to the approvals now required by law and by the regulations of the Treasury Department, and all vouchers must conform to the same laws and requirements, and pass through the ordinary channels."

It will be perceived that, by this fourth paragraph, they are "authorized to be present," &c. But the duty is not imposed upon them, nor is the duty imposed upon the Commissioner to consult them. Paragraph 5 authorizes them to give "their advice as to changes in modes of purchasing goods, or conducting the affairs of the Indian Bureau." But it does not make it the duty of the Commissioner to consult them with regard to the affairs of that Bureau. Paragraph 7 disconnects them from any responsibility with relation to the payment of vouchers or expenditures under the law, and requires that the vouchers shall conform to the law, and pass through the ordinary channels. With regard to the powers of this board, Mr. Brunot, its president, testifies, (p. 12:)

"We did not expect to manage the expenditure of the funds of the Department."

Again, (p. 13:)

"The acceptance of the powers given to the commission in the original instance was a qualified acceptance, and the words in which we accepted the powers were communicated to the President. We acted with this idea, that so far as it was practicable for us, with our other duties and engagements, we would accept of the trust he had reposed in us. In the same way, under the last act of Congress, we accepted it with a similar qualification. * * * * * * *

"We understood our duties were to bear such a relation to the Indian Department originally as would not impose upon us the control of the executive business, which belonged to the Commissioner of Indian Affairs, but that our duties were supervisory. * * * * * * * *

"It was not for me or for our board to stand over the Commissioner of Indian Affairs, watching his movements, and demanding of him to come to us for the purpose of consulting us. That is the explanation which I wish to give of the action of our board."

Again:

"Q. State whether you regarded yourselves as the managers of the Indian Bureau in any sense.—A. No, sir.

"Q. Or of its affairs or its administration?—A. No, sir.

"Q. Did you regard yourselves as charged with the administration of any of the laws connected with that Bureau, except as defined by those two acts?—A. No, sir.

"Q. Did you regard yourselves as having supervisory control over the Commissioner, such as to compel him to do what he did not want to do?—A. I cannot say that I at any time regarded our board as superior in authority to the Commissioner of Indian Affairs. I do not think it can have been intended that we should take the Commissioner's business and do it ourselves.

"Q. Have you ever had any occasion to complain to the Commissioner, or to suggest to him that he was doing wrong with reference to the letting of any contract?—A. No, sir."

I quote again from page 9, testimony of Mr. Colyer, secretary of the board:

"Q. With regard to your instructions, which you have interpreted, did not your board also claim that it should have the right to disburse all the funds, and was not that the question that was early raised with reference to the duties of the board?—A. No, sir; our board did not claim that.

"Q. What was the claim by your board about which some controversy arose?—A. That was before I was a member of the board.

"Q. That matter was before the Secretary?—A. I think it was raised by Mr. Welsh, then our chairman; but my impression is that it was not raised by the board."

Also, on page 11:

"Q. Does your board take the ground that the Commissioner has the sole power of purchasing?—A. Certainly; that is the law.

"Q. When he makes the purchase he performs his duty?—A. Yes.

"Q. And when you supervise you perform yours?—A. Yes.

"Q. It is his duty to act first in the matter and last in the matter?—A. Yes. In our interpretation we simply supervise, and all that we can do under that law, as I understand it, is to protest, and the Commissioner can finally act, even against our protest.

"Q. The final decision is left with him?—A. Yes.

"Q. And the responsibility of the purchase is with him?—A. Yes."

Now, this is about all that can be said with regard to any definition of the powers of the board under the original act. All the authority is contained in the law and the executive order. The phrase "joint control over disbursements" was early defined by the President and Secretary of the Interior, and acquiesced in by the board, as not in fact placing the board in charge of the disbursement of funds, or fixing upon them any responsibility for that disbursement. And all the authority to inspect goods or supervise their purchase is to be derived from the paragraphs which I have quoted, and none of these impose upon the Commissioner the duty of calling upon the board. Provision is simply made authorizing the board to inspect purchases, and advise with the Commissioner when they choose to do so. I think, therefore, that under the construction given to the law conferring joint control upon the Secretary of the Interior and the board, the Commissioner of Indian Affairs complied with the law fully in managing the affairs of his Bureau upon consultation with the Secretary, and this consultation was full, frank, and open.

We come now to notice section 3 of the act of July 15, 1870. That act, as I have already stated, continues the commission as created by the act of April 10, 1869. In addition to the duties imposed upon the commission by that act of 1869, the following appears:

"And it shall be the duty of said commissioners to supervise all expenditures of money appropriated for the benefit of Indians in the United States, and to inspect all goods purchased for said Indians, in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commission in making purchases of such goods."

Precisely what is meant by the phrase "supervise all expenditures of money" is not easily to be determined. I think that no more meaning can be attributed to it than the phrase in the former law, "exercise joint control with the Secretary of the Interior over the disbursements of the appropriations," &c. The power under the former act, indeed, was greater than the latter, for the power of "exercising joint control" is certainly greater than that of "supervising expenditures." And yet we have seen that the interpretation given to the former statute took away from the board any control over the disbursements, and the board has never, I believe, pretended that they had any such authority as that of a control over the disbursements or expenditures of money. Certainly, no one reading the clause in the former act and the executive order and instructions under it, would, after the passage of the second act, regard the powers of the board as enlarged by the provision which I have just quoted. To supervise is to oversee. To control is to exercise a restraining influence over, to govern, to overpower.

I come next to notice another clause, to which more importance is attached. Referring to the duties of the board, the law says:

"And to inspect all goods purchased for said Indians, in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult said commission in making purchases for such goods."

Now, Mr. Chairman, I invite your attention to the language of that clause. And, first, it will be observed that there is a joint duty conferred, in the first branch of the phrase, upon the Commissioner and the board, to *inspect* all goods purchased for the Indians. That inspection, in the very nature of the case, cannot be personally done by either the board or the Commissioner. The Commissioner regarded himself as discharging his duty when the inspections were made by his various agents. And this was done.

But it will be noticed that the first branch of this clause relates to inspection, while the second and last one relates to purchases of these goods; the provision being, "whose duty it shall be [that is to say, the Commissioner's] to consult said commission in making purchases of such goods." I think the law imposes upon the board as great an obligation as upon the Commissioner; that is, any failure on their part, resulting in injury to the Government, should be answered for to the same extent the Commissioner of Indian Affairs is called upon to answer. And I do not think that, in the ab-

sence of any injury arising from non-consultation by either party, or a failure on the part of either to inspect goods, any grave responsibility is incurred—that anything blamable is to be attached to them.

But the principal question here to be noticed is, as to the proper interpretation of the word "goods." The opinion has been expressed during the course of this trial, and for the first time has been brought to the attention of the Commissioner of Indian Affairs, that the word "goods" embraces provisions, that is, beef, bacon, &c., and I suppose, if the charges against the Commissioner are to be sustained in this regard, it must be held also to apply to transportation. The Commissioner's interpretation of that word is given in his testimony, which I will quote:

"Q. Did the matter come up in your mind as to whether the term 'goods,' used in the appropriation act approved July 15, 1870, embraced the matter of supplies generally, and, if so, what interpretation did you give to the statute?—A. I have never had but one impression, until recently, on this subject, which was that the term 'goods' generally used in the appropriation act did not embrace what we call subsistence or provisions.

"Q. Do not the laws distinguish between the two, and in this same appropriation act do not these two items appear separately?—A. They appear separately as a general thing, and I suppose there is where I got my impression.

"Q. Did you feel that it was your official duty to consult the board of commissioners in regard to this matter of provisions or subsistence, and did the question come up in your mind as to whether it was your duty to consult them?—A. I did not regard it as my duty to consult them.

"Q. Was that the reason you did not consult them?—A. That was the only reason. There were members of the board here during the month of June, and probably some portions of the month of May. We had conversations in the office in reference to the condition of Indian affairs, and the necessity of furnishing supplies to these particular Sioux. Red Cloud with his delegation, Spotted Tail with his, and another chief of another tribe up the Missouri, whose name I do not remember, were also here. Members of the commission were here, and, in my judgment and belief, the necessity was fully recognized by them of keeping these Indians supplied," (p. 28.)

And on page 29 he says:

"Q. What was the reason in your mind for not calling on the board of commissioners to inspect these provisions, as you did call upon them in regard to the goods?—A. I had no doubt in my mind, after the passage of the act of July 15, that they were directed by the law of Congress to inspect goods purchased, and I called upon them with that view; but I did not understand that the same requirements extended in reference to supplies. It would be often very inconvenient to bring them up to inspect every purchase and supervise every expenditure made under the extension."

Again, on page 32.

"By Mr. SARGENT:

"Q. Do I understand you to say you think the words 'Indian goods' do not include flour, bacon, tobacco, coffee, and sugar?—A. My impression is that, in a reading of the law, goods are made a separate item.

"Q. Where the law of 1869 provided that they should exercise joint control over the disbursements of appropriations made by that act, did not that, in your judgment, include expenditures for cattle, flour, tobacco, and coffee?—A. Very likely it did; but the execution of that law absolutely, with such a construction, would be utterly impossible, for they would have to come to the Indian Office and supervise every disbursement made under the Indian bill."

I think, Mr. Chairman, that the interpretation put upon the law by the Commissioner was not a strained one. I think it is one that might naturally suggest itself to him. You will find, upon examination of this same appropriation act, that the term "goods" is used distinct from "provisions." The distinction doubtless grew out of appropriations for annuity goods, and it will be found to run through all the laws upon this subject; and even in the treaty stipulations we find the phrase "annuity in goods," "annuity in money." As I understand it, the matter of feeding or supplying the Indians is distinct from that of furnishing them the goods under treaty stipulations. Annuity goods are a fixed and regular purchase, and follow year after year. But provisions and supplies vary with the necessities, and are never used, in the common parlance of the Indian Bureau, or in the statutes, as embraced in the phrase "Indian goods." I think, Mr, Chairman, that if you will examine the executive order heretofore alluded to, you will find confirmation of this view. Paragraph 4, which I have quoted, authorized the board to be present in person at purchases of goods for Indian purposes. This was done in 1869, and Mr. Brunot speaks of their sub-committee making purchases in connection with the Indian commissioner at New York. But they were not, during that year, called upon to assist in purchases of provisions or supplies, nor did the board claim their right so to do.

Mr. Brunot says that the board came to the conclusion that the word "goods"

was intended to cover all the expenditures of the Indian Department for whatever purpose; but this construction, he says, was never communicated by the board to the Commissioner of Indian Affairs, (p. 13.) It would not be difficult to suggest many things tending to show the fallacy of Mr. Brunot's construction; for example, all expenditures of the Indian Department cover clerical hire, fuel, and other expenses incident to the office itself, laborers and various employés, agents, and officers throughout the Indian country, transportation, and many other things which cannot, by any torture, be brought within the meaning of the word "goods." There was put in evidence, and is to be found on page 10, a letter of Mr. Brunot to the Commissioner, of June 3, 1870, calling his attention to the fact that the board is intrusted with the duty of advising with the Commissioner of Indian Affairs in regard to the purchase of goods, and inquiring at what time the spring purchases would be made, and the services of the board required. This letter was answered by the Commissioner three days after the appropriation bill passed, and manifestly, from the language of the answer, the Commissioner must have supposed that Mr. Brunot referred only to the goods then about to be purchased in New York City. For what purpose this correspondence is put in is not quite clear; but if it is to help to elucidate the meaning of the act of July 15, some very extraordinary result must be expected from it, for Mr. Brunot would hardly have attempted an interpretation of the act over a month before its passage.

The only fair inference which I can derive from his letter is, that the board had regarded itself as charged with the duty of advising with the Commissioner in the purchase of what are generally known as annuity goods. These are usually purchased in the spring, and hence we find the inquiry as to what time the spring purchases would be made. He could have made no reference to provisions and supplies for Indians, for he knew nothing of the condition of the Indian Department in that particular. There is also put in evidence, in connection with Mr. Colyer's deposition, the correspondence between him and Mr. Sargent, of the Appropriation Committee, (p. 160.) Mr. Colyer asks Mr. Sargent's opinion as to the meaning of the clause of the statute now under consideration. He says it is more particularly with reference to the first clause as contained in the first three lines. The interpretation given by Mr. Sargent differs from the view I am now presenting, although his letter in reply to Mr. Colyer does not seem to have been written with the idea in his mind that any question would arise as to the meaning of the word "goods," and that question is therefore really not decided in his letter. But that correspondence was not known to the Commissioner, and is for the first time brought to his attention in this trial. Like the discovery made by Mr. Colyer with regard to the Osage presents, it was reserved for such use as might be made of it in this investigation. The fact is, General Parker interpreted the law naturally and honestly, and executed it accordingly. If he had entertained a suspicion that a different view was held by the board from his own, no one who knows the efforts made by him to maintain the best relations with that board would doubt that he would have brought it to their attention. I cannot help expressing the opinion that if the board itself had felt this matter to be one of consequence, and had regarded the Commissioner as excluding them from any proper participation in the affairs of his office, they would have brought it to his attention. The gentlemen composing the board are not churls, nor are they cowards. They assumed their duties, and have performed them, at great personal sacrifice. They are men of standing and character.

They could afford to speak frankly and openly with regard to all matters about which they had cause for complaint. They could not afford to conceal anything, and I do not believe they did conceal anything. Beyond the conduct of Mr Colyer, and the great interest he has shown in prosecuting this case, there is not to be found a single instance which tends to show the slightest want of confidence on the part of the board in the present Commissioner of Indian Affairs. It is certainly a little remarkable that the secretary and mouthpiece of the board, who is by law charged with the responsibility of performing certain duties in connection with the Commissioner of Indian Affairs, and between whom and himself there should be not only confidence, but the closest relations, should attend this investigation night after night, aiding the prosecutor in the accomplishment of a purpose to remove the Commissioner of Indian Affairs. I do not believe that Mr. Colyer, in such a position, indelicate and improper as it must seem to any mind to be, can be acting under the authority of the board of commissioners.

But this is a divergence, Mr. Chairman, not important, and which I must beg pardon for having indulged in. The question here is, whether the Commissioner of Indian Affairs is to be censured for having discharged a duty devolved upon him by law, without consulting the board, which he did not at the time believe it was his duty under the law to do. You must in this, as well as in other points connected with this investigation, give some weight to motives; and where the motive was not a bad one, and no evil consequences followed from the conduct of the officer, it certainly cannot be the duty or province of this committee to condemn.

It is no unusual thing in private, as well as in official life, and in the management of private as well as public affairs, for one man to take upon himself the responsibility of performing duties which are made incumbent upon two or more. The law which originally created this board gave them joint control over all the disbursements of the Indian Department, and yet that control was practically taken away from them by the Executive order; and I do not suppose that out of the millions of dollars disbursed by the Interior Department under that act, the board of commissioners were called upon, or had an opportunity even, of participating in the disbursements of one-fiftieth part of it. That law did not require the Secretary, it is true, to consult the board, in terms; but how else could they have joint control without consultation; and if he failed to consult them or furnish them the opportunity of exercising that joint control, was he less to blame than Commissioner Parker in the subsequent law which made it his duty to consult the board? We have never heard any investigation contemplated into the conduct of the Secretary of the Interior, or of the Commissioner of Indian Affairs, under that law, nor have we ever heard of complaint being made against the President for practically annulling that clause which gave joint control over all disbursements. Why is it, then, Commissioner Parker is alone to be charged with the gross offense of violating the law of the land? Why is he to be made a victim for doing that than which nothing is more common in and out of official life?

OTHER SUGGESTIONS.

Mr. Chairman, if this were the first instance where an officer of the Government dared to take responsibilities in the administration of official duties, it might not be remarkable that public attention should be drawn to it; but, sir, as I run back over the last decade, and reflect upon the perils to our nation's life, which a strong hand has averted with public approval, where even the law had to be borne down and set aside, I cannot believe an honest officer, in the honest discharge of duty, well performed, will at this day be the first to suffer for his courage where he violated no law.

We do not need to go beyond the last two or three years, or beyond the Indian service, to find examples of fearless discharge of duty in cases not unlike this.

How long is it, Mr. Chairman, since General Sherman, in connection with the members of the peace commission created by Congress, incurred an expenditure without authority of law vastly greater than was involved in that portion of Commissioner Parker's purchases, which were made under an emergency?

How long is it since General Sherman, on a single telegram to the governor of Montana, authorized the raising of troops, to be paid by the National Government, involving an expenditure of a million of dollars, for the payment of which Congress has made provision?

Who has had the temerity to attack General Sherman or the peace commission?

Who has ever sought to arraign General Harney for feeding the same Indians for whom Commissioner Parker made provision, although General Harney, without authority of law, incurred an expenditure vastly beyond that which Commissioner Parker incurred?

Who has dared to insinuate that General Sherman was in fraudulent collusion with contractors because he paid large prices for beef, much larger than General Parker paid? Who ever thought of bringing General Harney before a committee in Congress for paying almost three times as much for flour as Commissioner Parker did?

It is in evidence, what every public man familiar with the management of Indian affairs knows, that ever since the Indian Bureau has been in existence, it has been the custom of the office to provide for the Indians as Commissioner Parker did. The Indian Office has been arraigned over and over again, and probably more discussion has taken place in and out of Congress upon the management of Indian affairs than upon any other, and I have yet to learn of an effort having ever been made to convict an Indian Commissioner of violation of law for making provision, as Commissioner Parker did. The necessity for sometimes resorting to open market purchases and contracts without advertisement, has been recognized by every administration, and I think I may say every Congress. With this knowledge, and these precedents to guide him, how monstrous it is to assail Commissioner Parker upon this ground!

If Mr. Welsh desires to keep the Indian Office free from outside rings and corrupt combinations, Heaven help him; but if he expects to reform our public service by wholesale charges of corruption that have no foundation except in his own fertile brain; if he hopes to reassure public confidence by destroying the faith the people have in their public servants, through the means of a vexatious and heartless pursuit of those in official position; if he hopes to engraft upon our Indian management the benign influences of the church through an unchristian method of attack; if he hopes to elevate the Indian by openly declaring, as he has, that the President has put into the office to which they look for protection one who is but a remove from barbarism, thus stigmatizing the whole race; if he believes that the Christian people of this land are to join him in a crusade against this representative of the Indian by groundless

accusations; if, in short, he intends to work out certain theories of his own under cover of Christian philanthropy, without regard to consequences, he will find he has undertaken that which will recoil fearfully upon him, and which will awaken an indignant protest from every honest heart.

Mr. Chairman, you and others are not blind to the general results of the President's policy, so ably carried out in its details by the Indian Bureau; you have seen no Indian wars desolating our borders since its inauguration; your Committee of Appropriations have had no millions to provide, as heretofore, for large numbers of troops to avenge the murders of our frontier citizens, and repress the warlike spirit of the Indians; the dollars expended by Commissioner Parker, have been units to the tens previously expended; since this trial began you have provided for additional of the warlike savages, who are coming in to be fed and to acquire our habits of life, and you know the general feeling which pervades the people along the border is, that we must hold out every encouragement in the direction now being taken; you know, for you have had frequent intercourse with the Commissioner, how earnestly he has bent his energies to second the wishes of the President and Congress in this regard. Is it, then, too much to ask that these things be considered? At the worst, this record shows only that the Commissioner has been too bountiful in his supplies of food, although it does not appear that a pound of provisions has been wasted; at the worst, he has erred in not feeding the Indians from hand to mouth, keeping their minds full of doubt each day as to their subsistence for the next. I believe, Mr. Chairman, Commissioner Parker has no regret that he chose the course he did. By doing so, he has convinced the Indians that the Government is in earnest, and that it may be trusted.

It may well be asked, what would have been the gravamen of Mr. Welsh's complaint had a timid policy been pursued at the juncture we have considered, and an Indian outbreak been the result? I doubt not he would then have held the Commissioner responsible for not doing the very thing of which he now complains.

But, sir, a subject of this gravity is not to be judged by the cost of a few thousand pounds of beef or sacks of flour; or an accidental side of bacon, with a rib in it; or a few barrels of sugar made of molasses; or the difference between the cost of shipping goods up the Missouri River in the spring and fall; or the cent per cent. bargainings by which some men amass large fortunes in cities like Philadelphia.

Gentlemen in public positions, called upon to assume responsibilities unknown to urban merchants, learn to take broader views of affairs of state. The experience of your committee, Mr. Chairman, as public men, furnishes some guarantee that Commissioner Parker will be judged from the standpoint of statesmanship, and not that of a tradesman, who, however honest amd well-meaning, may be very narrow when he comes to view subjects new to him.

FRAUD.

There is a graver subject than any we have directly considered in connection with this investigation. And that is, whether there was fraud in the transactions of the Commissioner of Indian Affairs in the matter of letting the contracts in question. It is a common thing, in this very sensitive age, to attribute bad motives to men where good ones are not positively shown. And men have a loose way of expressing themselves as to the conduct of public officers, in which "fraud" and "corruption" are used interchangeably with "mistakes" and "blunders." Now, there are some rules of law upon this subject which it may be well enough to bring to the notice of the committee.

Actual fraud is not to be presumed, but ought to be proved by the party who alleges it.

If the motive and design of an act may be traced to an honest and legitimate source equally as to a corrupt one, the former ought to be preferred. (Conrad *vs.* Nicoll, 4 Peters, 295; Clark *vs.* White, 12 Peters, 178; Garrow *vs.* Davis, 15 Howard, 272.)

This is the rule of law laid down in all the books, and need but be stated to remind the committee of the rule.

Fraud may be proved by circumstances; yet, if an act do not necessarily imply fraud, it is not to be presumed. (Gregg *vs.* Sayre, 8 Peters, 244; Tardy *vs.* Morgan, 3 McL., 358; Henckly *vs.* Henderson, 5 McL., 170.)

These are rules familiar to all lawyers, and I suppose will not be denied.

I do not know, Mr. Chairman, that I ought to go so far as to admit that your committee entertain now any suspicion of fraud or corruption on the part of the Commissioner, as I may seem to do by suggesting any consideration of this subject.

Mr. Welsh has stopped short of a direct charge of corruption. He has been careful to utter no libelous words which the law will take hold of and punish. Whatever his indiscretions and extravagances of speech and pen, he has been shrewd enough to avoid personal liability.

But, Mr. Chairman, he has suggested that, considering such and such things, he

thinks it "more than probable there was collusion in an attempt to defraud the Government;" but between whom he is vague and uncertain as to his meaning.

(See charge tenth, p. 127.)

I ask the committee to read charge tenth, and notice the reasons given for the belief of Mr. Welsh as to fraudulent collusion.

Of the four facts given for this belief, but a single one is proved by evidence, and that is, that Mr. Bosler is a partner in the Morrow contract; a fact which Commissioner Parker did not know until this investigation began; a fact, too, which, had he known it at the time, would not imply any collusion.

So far as the basis of Mr. Welsh's imagined fraud is concerned, it has not so much in it as the baseless fabric of a vision.

I am not disposed to recite the circumstances in the case from which fraud is to be inferred, if at all. They have been fully presented in connection with other questions, and I can only say that I believe now Mr. Welsh even will feel called upon to abandon the suspicion with which he entered upon the prosecution of this case. I ought not, perhaps, to overlook in this connection, while speaking of the absence of evidence of fraud, the fact that Mr. Welsh has pursued this phantom to such an extent as to bring before the committee the private bank account of Mr. Bosler. Mr. Welsh resides in Philadelphia, and his position there enabled him to institute, in a manner not altogether creditable to the parties, an inquiry into the bank account of Mr. Bosler. On the 28th of January, during the progress of this trial, Mr. Jay Cooke, from Philadelphia, telegraphed to New York as follows:

"DATED PHILADELPHIA, PA., —— 28, 1871.

[Received at 2.57, January 28.]

"*To Jay Cooke & Co., New York City:*

"Send by Monday's mail, to H. D. Cooke, Washington, copies and detail of deposits, draughts, and other transactions by J. W. Bosler and General Ely S. Parker, since May last, and have them certified by sub-treasurer. Answer.

"JAY COOKE."

That this dispatch was suggested by Mr. Welsh no one can deny, for it is not to be supposed that Mr. Jay Cooke cared enough about this investigation to enter upon such an inquiry without the suggestion of some one, and who else could have made it but Mr. Welsh? On the same day Jay Cooke's partner, Mr. Fahnestock, replied to this telegram as follows:

[Received at Philadelphia.]

"TO JAY COOKE:

"[Copy.] January twenty-eight. General Parker never had any transactions with us. Bosler, now in office, has had large deposit accounts with us for two years, never asking accommodations, and is entitled to consideration accordingly. Is it proper to send details of his account?

"H. C. FAHNESTOCK."

When Mr. Cooke, on receiving this reply, showed it to Mr. Welsh, he ought to have been satisfied, but it seems he was not, and hence, on February 3, we find brought before the committee (without opportunity to object, if we had desired to make an objection) the books showing Mr. Bosler's transactions with that bank for the year 1870. The closest examination into the checks of Mr. Bosler reveals no connection between him and the Commissioner, and, as we have seen, Mr. Fahnestock telegraphed that Commissioner Parker had had no transactions with that bank. Whether Mr. Welsh's examination into private bank accounts ended here I cannot say. But the zeal which led him to go to this extent doubtless has led him to make similar inquiry into all the banks of this city and elsewhere, where he had the slightest suspicion anything could be ascertained derogatory to the Commissioner. It is, perhaps, fortunate for Commissioner Parker that he has but a sorry bank account, if any; for no one could convince Mr. Welsh, if he should find $50,000 anywhere to the credit of Commissioner Parker, that that fact alone would not establish the corruption of the Commissioner.

I would remind the committee of the fact that all the witnesses with whom any collusion is hinted at have answered the question directly as to whether the Commissioner had any pecuniary interest in any transaction connected with this investigation. The Commissioner was himself asked the direct question as to any pecuniary interest he may have had in any of these transactions; and I need only say that the answers of all the persons implicated contained the fullest and amplest denial of any connection as charged. These persons, including the Commissioner, are either perjured men, and you must so hold, or else you must find that the Commissioner's integrity is spotless and without taint.

What I have said, Mr. Chairman, in this summing up of the testimony, has been, as you know, under great pressure as to time, and without any opportunity of knowing the view which the committee may take, or the theories which may be urged on the committee by Mr. Welsh, in the paper which I believe he intends submitting to the committee. I have earnestly endeavored to cover the whole case, and have sought to omit nothing which would in any way tend to arrive at the truth of the matter.

If I am to judge of what views will be taken by Mr. Welsh from his fulminations through the public press, even since this investigation began, and his efforts to have the case prejudged, I am prepared for almost any misstatement of facts, and false and unwarranted conclusions. The committee ruled, in the course of the investigation, that the motive which led Mr. Welsh to institute this prosecution was not competent evidence, although enough appears in the record to establish the fact that he has had a long-cherished purpose of accomplishing the removal of Commissioner Parker from office, (see p. 62,) and that he expressed the opinion that he would have been successful at the time he resigned from the board of commissioners, had they followed his example and resigned also. I was prepared to prove that while he was in the West, pretending to act under direct authority from the President of the United States, he was insidiously poisoning the minds of the Indians against those who are appointed to manage their affairs, and that he even went so far as to offer money to procure evidence which would lead to the removal of Commissioner Parker. But this I was not permitted to show, and, perhaps, properly; for, after all, it matters little what Mr. Welsh's motive was, the chief inquiry being as to whether the administration of Commissioner Parker has been good or bad. I speak of this, however, Mr. Chairman, not to detract from any just criticisms Mr. Welsh may make upon the testimony, or belittle any just conclusions which he may reach; but to caution the committee against receiving any statements made by him in any paper he may submit as purporting to be sustained by the record, unless upon examination of the record he shall be found to be sustained.

In conclusion, then, Mr. Chairman, you must allow me to thank you and the members of the committee for the permission to present my views in this case, and as they are not given for any other view than that of assisting in the development of the truth with regard to the case, and are given in the interests solely of my friend, Commissioner Parker, I ask in his behalf that they may be duly considered, and if not inconsistent with the rules of procedure in such cases, that they may accompany the record in the case when it shall be submitted to the House of Representatives.

ADDENDUM.

I ought perhaps to add, in the matter of the payment of money to the Quapaw Indians, whereby the attorney received one-third, that General Parker had nothing to do with the payment.

I speak of this, lest he may be connected with it in some manner. The evidence relieves him from any participation in the transaction, and I suppose the committee will so find.

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41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 40.

TWO PER CENT. CLAIM OF ILLINOIS, INDIANA, AND OHIO.

FEBRUARY 27, 1871.—Ordered to be printed and recommitted to the Committee on the Judiciary.

Mr. KERR, from the Committee on the Judiciary, made the following

REPORT.

The Committee on the Judiciary, to whom was referred House resolution No. 379 to construe a statute therein named, having had the same under consideration, beg leave to submit the following report:

The object of the resolution is to construe the second section of the act of March 3, 1857, entitled "An act to settle certain accounts between the United States and the State of Mississippi and other States." For the better understanding of the whole subject, the entire text of the act is here set out:

That the Commissioner of the General Land Office be, and he is hereby, required to state an account between the United States and the State of Mississippi, for the purpose of ascertaining what sum or sums of money are due to said State, heretofore unsettled, on account of the public lands in said State, and upon the same principles of allowance and settlements prescribed in the "Act to settle certain accounts between the United States and the State of Alabama," approved the second of March, eighteen hundred and fifty-five; and that he be required to include in said account the said reservations under the various treaties with the Chickasaw and Choctaw Indians within the limits of Mississippi, and allow and pay to the said State five per centum thereon, as in case of other sales, estimating the lands at the value of one dollar and twenty-five cents per acre.

SEC. 2. *And be it further enacted*, That the said Commissioner shall also state an account between the United States and each of the other States upon the same principles, and shall allow and pay to each State such amount as shall thus be found due, estimating all lands and permanent reservations at one dollar and twenty-five cents per acre.

To indicate the "principles" referred to in the foregoing act, the text of the act of March 2, 1855, "to settle certain accounts between the United States and the State of Alabama," is here also fully embodied:

That the Commissioner of the General Land Office be, and he is hereby, required to state an account between the United States and the State of Alabama, for the purpose of ascertaining what sum or sums of money are due to said State, heretofore unsettled, under the sixth section of the act of March second, eighteen hundred and nineteen, for the admission of Alabama into the Union; and that he be required to include in said account the several reservations under the various treaties with the Chickasaw, Choctaw, and Creek Indians within the limits of Alabama, and allow and pay to the said State five per centum thereon, as in case of other sales.

The policy of the Federal Government toward the States out of which these claims arose was adopted prior to 1802. It was based upon the agreement of all new States at the time of admission into the Union that they would waive and not exercise, for the period of five years after entry, their right to tax all lands within their respective limits purchased of the United States. This condition was imposed by the United States in aid of immigration and settlement, and was

assented to by the States on condition that five per cent. of the proceeds of the sales of all public lands within their respective limits should be allowed and paid to the States respectively, or expended by Congress for their use and benefit. These agreements and conditions were not in all cases precisely the same; but their differences were not such as to impair or modify the general policy in which they had their origin. All the States embraced within that policy have, without a single exception, entirely refrained from taxing lands purchased of the United States until the period of five years had elapsed from the date of purchase. They have thus kept faith with the Federal Government, and thereby, whatever rights accrued to them, respectively, by reason of this policy, became vested, and, so far as they have not heretofore been, they ought now to be observed and protected. These rights have been in good faith fully recognized and awarded by the Federal Government in behalf of the States of Louisiana, Arkansas, Michigan, Wisconsin, Kansas, Iowa, Minnesota, Florida, Alabama, Mississippi, Missouri, Oregon, Nebraska, and Nevada, and in one form or another, as the result of arrangements satisfactory to both parties, each of them has had the full benefit of the reserved five per centum.

In the early history of the legislation on this subject, it will be found that the mode of payment, investment, or disposition of this fund was determined by laws applying to the several States separately. But, to avoid the frequently recurring necessity for such special enactments, the second section of the act of March 3, 1857, was passed. That section made it the duty of the Commissioner of the General Land Office to "state an account between the United States *and each of the other States, upon the same principles, and to allow and pay to each State such amount as shall thus be found due, estimating all lands and permanent reservations at* $1 25 per acre." This language is clear and specific, and its intent and purpose are too obvious to need argument. The "other States" are required to be settled with on the liberal and just principles on which the settlements were made with the States of Mississippi and Alabama. When settlements are to be made, it is declared to be the duty of the Department to *allow* and *pay* the amount so found to be due. There is nothing in this section which prescribes one rule for one State and a different rule for another in the adjustment of these accounts. No words in the act indicate any purpose or intent to charge any State with any set-off. No exception or restriction is made against any States.

The States of Illinois, Indiana, and Ohio have severally enjoyed, under different laws, the benefit of the fund in question to the extent of three per centum, or three parts of the five per centum. But the other two per centum has been withheld. Should it be allowed and paid? The object of the joint resolution under consideration is to give an affirmative answer to this inquiry by construction of the act of March 3, 1857.

Ohio was the first State admitted, and from time to time there was paid to it three-fifths of this fund, to be expended under the direction of its legislature in making roads within the State. But the other two fifths the Federal Government reserved the right to expend in making public roads leading from the navigable waters emptying into the Atlantic to the State and *through the same.* (See acts of April 30, 1802, and March 3, 1803, relative to admission of Ohio.)

The State of Illinois, under like enactments, received three-fifths of this fund to be expended in the advancement of its educational interests under the direction of its legislature. The other two fifths of the fund were to be expended in making roads leading to the State. (See act of

April 18, 1818, relative to admission of Illinois, and Brightley's Digest, p. 310, conditions 3 and 4, of section 3.)

The State of Indiana, under similar laws, enjoyed the use of three-fifths of the fund in making roads and canals therein. The other two-fifths were to be expended by Congress in the construction of a road or roads leading to that State. (See act of April 11, 1818, and Brightley's Digest, p. 416, and 3 Statutes at Large, p. 424.)

The United States never discharged their obligations, or performed their trust, toward these States in the expenditure of the two-fifths of this fund, unless, in the judgment of Congress, the futile attempt to lay out and construct a road, called in the laws on the subject, the "Cumberland road," constitutes a performance of those duties. That road, as originally projected and subsequently extended, was intended to connect by a great national highway the East with the West, running through the capitals of Ohio, Indiana, and Illinois, and terminating at Jefferson City, in the State of Missouri. It will scarcely be contended by any person that the design of Congress in this respect was ever executed. It was not carried out to any such extent, or in any such manner, as even to constitute any just, equitable, or legal claim against those States. It cannot be said that it was a compliance in spirit or letter with the terms upon which the two-fifths were retained.

These views are very greatly fortified by the fact that, when the legislation of 1857 was enacted, that "Cumberland road" had been for long years abandoned; had been surrendered to the States through which it was projected without conditions; had ceased to be Federal property or under Federal control; had passed out of popular memory, and was remembered only in history. It cannot, without a manifest stretch of imagination, be claimed to have been in the legislative mind when the act of 1857 was passed. The road was not referred to in any of those enactments. Its existence was not made the basis of any charges against those States. Neither was any condition imposed upon, or any charge made against, any of them when that road was surrendered to them, so far as it was within their respective limits. Besides, the parts of that road which were within the States of Maryland, Virginia, and Pennsylvania were given to those States respectively without any charge or claim, or expectation of repayment in any way whatever, directly or indirectly.

It is further worthy of remark, that, by reason of intrinsic difficulties in the subject, it would be impossible to make an account against any of those States for money expended in the partial construction of that road, except upon the most fanciful, if not absurd, principles of accounting. But why make any such claim against those States when none such was ever made, or ever will be made, against any other States? Why deny to these States equal consideration or equity, or even liberality, with any other States?

It is proper further to observe that the privilege of taxing the lands of their citizens for the period of five years, after their purchase by the citizens from the Federal Government, which was so surrendered by the States, would have realized to them respectively, if it had not been so given up, very much more than the amount which they now claim. In other words, it was the surrender of a valuable right, the giving of a full equivalent by the States for the promised five per centum. So far as that fund has not been accounted for to these States, it remains in the custody of the United States as a sacred trust; and, in our judgment, its adjustment and payment ought not to be longer delayed. We might here refer at length to the numerous decisions in the past by committees of either

House of Congress, by Commissioners of the General Land Office, and by competent and distinguished officials, maintaining the validity of the claims of these States. But it is deemed proper to let the subject abide upon its own merits in the judgment of the House.

The committee, in conclusion, recommend the passage of the following joint resolution as a substitute for the one referred to them:

JOINT RESOLUTION declaring the true construction of a statute.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the true intent and meaning of the second section of the act approved March three, eighteen hundred and fifty-seven, entitled "An act to settle certain accounts between the United States and the State of Mississippi and other States," is that all the other States, to wit, Ohio, Indiana, and Illinois, which have not received the full amount of their five per centum of the net proceeds of the sale of public lands lying within their respective limits, as mentioned in their several enabling acts, in money, shall have their accounts stated, both on the public lands and reservations, and such cash balance as has not been paid to said States allowed and paid.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 41.

CHOCTAW NATION.

FEBRUARY 27, 1871.—Ordered to be printed and recommitted to the Committee on the Judiciary.

Mr. KERR, from the Committee on the Judiciary, made the following

REPORT.

The Committee on the Judiciary, to whom were referred the memorials in behalf of the Choctaw Nation, having had the same under consideration, respectfully report:

That, in their judgment, under the tenth and forty-fifth articles of the treaty of April 28, 1866, between the United States and the Choctaw and Chickasaw Indians, (14 Stat. at Large, p. 769,) the Choctaw Indians are entitled to $250,000 of bonds of the United States, to be issued to them by the Secretary of the Treasury, under the direction of the President. The treaty is the supreme law of the land, and the President is charged with its execution as a ministerial duty. It appears to be clear that his authority to execute it, by the delivery of such bonds to the proper authorities of the Choctaw Nation, is complete under the treaty and existing laws and practices of the Government, without additional legislation. Under date of September 29, 1870, the Secretary of the Treasury, Hon. George S. Boutwell, referred the subject for investigation and opinion to the Attorney General, and that officer, on December 15, 1870, responded in the following opinion:

DEPARTMENT OF JUSTICE,
December 15, 1870.

SIR: In answering the question propounded in your letter of the 29th of September, 1870, it is necessary that I should consider a series of treaties and statutes.

In the treaty of June 22, 1855, with the Choctaw and Chickasaw Indians, (11 United States Stat., p. 611,) it was provided that certain claims of the Choctaws against the United States set up under a prior treaty should be submitted for adjudication to the Senate of the United States. The Senate does not appear to have ever adjudicated the claim by any separate action; but in the Indian appropriation act of March 2, 1861, it was provided that there should be paid "to the Choctaw nation or tribe of Indians, on account of their claim under the eleventh and twelfth articles of the treaty with said nation or tribe made the 22d of June, 1855, the sum of $500,000; $250,000 of which sum shall be paid in money; and for the residue, the Secretary of the Treasury shall cause to be issued to the proper authorities of the nation or tribe, on their requisition, bonds of the United States, authorized by law at the present session of Congress; provided that in the future adjustment of the claim of the Choctaws, under the treaty aforesaid, the said sum shall be charged against the said Indians." (12 United States Stat., p. 238.)

In the Indian appropriation bill of July 5, 1862, (12 United States Stat., p. 528,) it was provided "that all appropriations heretofore or hereafter made to carry into effect treaty stipulations, or otherwise, in behalf of any tribe or tribes of Indians, all or any portion of whom shall be in a state of actual hostility to the Government of the United States, including the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, may and shall be suspended and postponed wholly or in part at and during the discretion and pleasure of the President;" and the President was further authorized to expend any unexpended part of previous appropriations for the benefit of said tribes, for the relief of such individual members of the tribes as had been

driven from their homes and reduced to want, on account of their friendship to the Government.

In the Indian appropriation act of March, 3, 1865, (13 United States Stat., p. 562,) the Secretary of the Treasury is authorized and directed, in lieu of the bonds for the sum of $250,000 appropriated for the use of the Choctaws in the act of March 2, 1861, "to pay to the Secretary of the Interior $250,000 for the relief and support of individual members of the Cherokee, Creek, Choctaw, Chickasaw, Seminole, Wichita, and other affiliated tribes of Indians who have been driven from their homes and reduced to want on account of their friendship to the Government.

On the 28th of April, 1866, a treaty was made with the Choctaw and Chickasaw Indians, (14 United States Stat., p. 769,) the tenth article of which is in the following words: "The United States reaffirm all obligations arising out of treaty stipulations or acts of legislation, with regard to the Choctaw and Chickasaw Nations, entered into prior to the late rebellion and in force at that time, not inconsistent herewith; and further agrees to renew the payment of all annuities and other moneys accruing under such treaty stipulations and acts of legislation from and after the close of the fiscal year ending on the 30th of June, in the year 1866." The forty-fifth article is in these words: "All the rights, privileges, and immunities heretofore possessed by said nations, or individuals thereof, or to which they were entitled under the treaties and legislation heretofore made and had in connection with them, shall be, and are hereby declared to be, in full force, so far as they are consistent with the provisions of this treaty."

The Choctaw Indians have made requisition on the Secretary of the Treasury for bonds of the United States to the amount of $250,000 under the act of March 2, 1861; and the question upon which you desire my opinion is, whether such bonds may law fully be issued to them.

Without considering the effect of other legislation on the subject, I am of the opinion that the act of March 3, 1865, withdrew from the Secretary of the Treasury the authority, vested in him by the act of 1861, to issue the bonds; and unless that authority is revived in the treaty of July, 1866, it does not now exist. But I am further of opinion that such authority is revived by that treaty, if a treaty can have such effect.

By the treaty the United States reaffirm all obligations arising out of treaty stipulations or acts of legislation, with regard to the Choctaw and Chickasaw Nations, entered into prior to the late rebellion and in force at that time. In every reasonable sense of the word "obligations," as used in that treaty, the provision in the act of 1861, for issuing the bonds, was an obligation. Liberal rules of construction are adopted in reference to Indian treaties, (5 Wall., p. 760.) It was an obligation which grew out of a treaty stipulation and an act of legislation in part execution of a treaty stipulation. It was entered into prior to the late rebellion. It was in force when the rebellion began. Thus it answers every part of the description in the treaty.

The sections of the treaty above quoted, together with others of its provisions, place these Indians, as to all dues from the Government, just as they stood at the outbreak of the rebellion in April, 1861. To reaffirm obligations arising out of a repealed act of legislation must signify the restriction of the parties to the positions in which they stood when the act of legislation was in force.

The serious question, however, does not relate to the meaning but to the authority of the treaty of 1866. The statute of March 3, 1865, repeals the direction of the Secretary of the Treasury in the act of March 2, 1861. The treaty undertakes to revive that direction. Is such an act within its competency?

By the sixth article of the Constitution treaties as well as statutes are the laws of the land. There is nothing in the Constitution which assigns different ranks to treaties and to statutes. The Constitution itself is of higher rank than either by the very structure of the Government. A statute not inconsistent with it, and a treaty not inconsistent with it relating to subjects within the scope of the treaty-making power, seem to stand upon the same level and to be of equal validity; and, as in the case of all laws emanating from an equal authority, the earlier in date yields to the later.

In 1791 Mr. Madison wrote as follows: "Treaties, as I understand the Constitution, are made supreme over the constitutions and laws of the particular States, and, like a subsequent law of the United States, over preëxisting laws of the United States; provided, however, that the treaty be within the prerogative of making treaties, which no doubt has certain limits." (Writings of Madison, vol. i, p. 524.)

In the United States *vs.* The Schooner Peggy, (1 Cranch, p. 37,) the Supreme Court of the United States, in an opinion delivered by Chief Justice Marshall, held, in effect, that a treaty changed the preëxisting law, "and is as much to be regarded by the court as an act of Congress."

In Foster and Elam *vs.* Neilson, (2 Peters, p. 253,) the Supreme Court say: "Our Constitution declares a treaty to be a law of the land. It is, consequently, to be regarded in courts of justice as equivalent to an act of the legislature, whenever it

operates of itself without the aid of any legislative provision;" and, in applying this principle to the case before them, say that if the treaty then under consideration had acted directly upon the subject, it "would have repealed those acts of Congress which were repugnant to it."

In Taylor *vs.* Morton, (2 Curtis, C. C. R., p. 454,) it was held that Congress may repeal a treaty so far as it is a municipal law, provided its subject-matter is within the legislative power of Congress.

The just correlative of this proposition would seem to be that the treaty-making power may repeal a statute, provided its subject-matter is within the province of the treaty-making power.

Attorney General Cushing, in 1854, after a full examination of the subject, came to the conclusion that a treaty, assuming it to be made conformably to the Constitution, has the effect of repealing all preëxisting Federal law in conflict with it." (Opinions, vol. vi, p. 291.)

Hamilton says: "The treaty power binding the *will* of the nation must, within its constitutional limits, be paramount to the legislative power, which is that will; or at least, the last *law* being a treaty, must repeal an antecedent contrary law." (Works of Hamilton, vol. vi, p. 95.)

Again: It is a question among some theoretical writers whether a treaty can repeal *preëxisting laws.*

This question must always be answered by the particular form of government of each nation. In our Constitution, which gives, *ipso facto*, the force of law to treaties, making them equal with the acts of Congress, the supreme law of the land, a treaty must necessarily repeal an antecedent law contrary to it, according to the legal maxim that "*leges posteriores priores contrarias abrogant.*" (*Ibid.*, vol. vii, p. 512.)

An engagement to pay money is certainly within the province of the treaty-making power, and I cannot perceive that such an engagement is carried beyond that province by the circumstance that it provides for issuing through the agency of a particular officer an obligation to pay money at a particular time; for such, in effect, is a bond.

Can the Secretary of the Treasury issue the bonds without a new direction from Congress? In other words, is the treaty a law for him, or can he know no laws except such as are passed by Congress?

The Secretary is an officer of the executive department of the Government. It is established by a long course of authoritative opinion and conforming practices that, in many cases, the Executive of the United States can execute the stipulations of a treaty without provision by act of Congress. In some instances this has been done as a general executive duty, when the treaty itself pointed out no particular mode of execution. This was the course taken in the case of Thomas Nash, otherwise called Jonathan Robbins, who was delivered up by the direction of President Adams to the British authorities, in execution of the treaty with Great Britain of 1794. An attempt to bring the censure of Congress upon the President for this act was encountered by an argument from Chief Justice Marshall, then a representative from Virginia, which conclusively established the power. In other cases the President has acted when the mode of action was pointed out in the treaty.

In the treaty of Washington of 1842 there was a provision for extradition of criminals. Prior to any legislation for carrying out this provision of the treaty it was executed by officers of the United States. In 1845, James Buchanan, Secretary of State, issued a warrant for the arrest of certain persons, subjects of Great Britain, who were charged with a crime committed under British jurisdiction and against British laws, and it was decided by Mr. Justice Woodbury, upon the return to a writ of *habeas corpus*, that the warrant and the arrest were legal. (1 Woodbury & Minot's Rep., p. 66.) The learned justice remarks: "It is here only on the ground that the act to be done is chiefly ministerial, and the details full in the treaty, that no act of Congress seems to me necessary." (*Ibid*, p. 74.)

Attorney General Nelson, in discussing this treaty, remarks: "It has been made under the authority of the United States, and is the supreme law of the land. It has prescribed by its own terms the manner, mode, and authority in and by which it shall be executed. It has left nothing to be supplied by legislative authority, but has indicated means suitable and efficient for the accomplishment of its object. It needs no sanctions other or different from those inherent in its own stipulations, and requires no aid from Congress. Surely it cannot be necessary to invoke the legislative authority to give it validity by its reënactment." (4 Opinions, p. 209.) This language may be fitly applied to the treaty with the Choctaws.

I am aware of the distinction which has been taken between such treaties as do and such as do not import a contract, and of the current notion that, in the former case, Congress must act before the treaty can be executed. But the practice of the Government in extradition treaties and in other sorts of international covenants has been at variance with this notion.

If the Executive may constitutionally execute a treaty for delivering persons to a

foreign jurisdiction, it may well feel authorized by the Constitution to execute a treaty that stipulates for the less important matter of issuing bonds.

According to article 1, section 9, of the Constitution, as construed by the practice of the Government, an act of Congress is necessary to appropriate money to pay the public debt, however created. The change of the form of the debt, from a general stipulation in the treaty to bonds with particular provisions, does not take away that necessity. The time for the exercise of whatever power Congress has over the subject will come when provision for the payment of the bonds is to be made.

Waiving all discussion of the desirableness, on grounds of expediency, of immediate authority from Congress, and responding to your question according to my judgment of the law of the case, I am of opinion that you may lawfully issue the bonds to the Choctaws.

Very respectfully, your obedient servant,

A. T. AKERMAN,
Attorney General.

Hon GEORGE S. BOUTWELL,
Secretary of the Treasury.

Your committee, after careful inquiry, fully concur in the reasoning and conclusions of the Attorney General, and they deem it unnecessary, therefore, to make any further detailed statement of their views.

The committee, therefore, recommend the adoption of the following resolution to dispose of the subject:

Resolved, That the President, having full authority under existing laws and the treaty of April 28, 1866, between the United States and the Choctaw Nation of Indians, to issue and deliver to said nation $250,000 of United States bonds, no further legislation of Congress is necessary to that end.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 42.

BILLS FOR RAISING REVENUE.

FEBRUARY 27, 1871.—Ordered to be printed and recommitted.

Mr. HOOPER submitted the following

REPORT.

The committee of conference on the part of the House, charged with the duty of conferring with the conference committee appointed by the Senate to consider the question of privilege raised by the resolution of the House adopted January 27, 1871, *in reference to Senate bill* (S. 1083) "*to repeal so much of the act approved July* 14, 1870, *entitled 'An act to reduce internal taxes, and for other purposes,' as continues the income tax after the* 31*st day of December, anno Domini* 1869," *report:*

That, after full and free conference, the joint committee of conference were unable to agree, and the committee on the part of the House, in reporting that disagreement, respectfully submit the reasons which formed the basis of their action in the joint committee of conference.

Congress passed an act approved July 14, 1870, imposing duties upon certain imported articles and admitting other articles free of duty; also imposing certain internal taxes, including a tax on income, and repealing other internal taxes.

On the 26th January, 1871, the Senate passed a bill, (S. 1083,) originating in that body, which repealed so much of the act of July 14, 1870, as continues the income tax after December, 1869. Believing this bill, thus originating in the Senate, to be one which the first clause of the seventh section of the first article of the Constitution required to originate in the House of Representatives, and, therefore, an invasion of the privileges of the House, when it came over from the Senate on January 27, 1871, the House immediately adopted the following resolution:

Resolved, That the Senate bill (S. 1083) "to repeal so much of the act approved July 14, 1870, entitled 'An act to reduce internal taxes, and for other purposes,' as continues the income tax after the 31st day of December, anno Domini 1869," be returned to that body, with the respectful suggestion on the part of the House that section vii, article 1, of the Constitution vests in the House of Representatives the sole power to originate such measures.

The bill was returned to the Senate with a copy of said resolution.

The Senate thereupon asked for a committee of conference on the resolution, with which the House at once complied, as an act of courtesy, the question involved being the *privilege* of the House.

At the meetings of the joint committee of conference, the Senate conferees, Messrs. Scott, Casserly, and Conkling, submitted and maintained throughout the conference:

First. That the words "all bills for raising revenue shall originate in the House of Representatives," in the seventh section of the first article of the Constitution, mean only bills the direct purpose of which is to raise revenue *by the levy of taxes, imposts, duties, or excises.*

Second. That a bill may originate in the Senate to repeal a law or portion of a law imposing such taxes, duties, imposts, or excise, even if the repeal of such repeal render

necessary the imposition of other taxes; and Senate bill (S. 1083) being such an act, it is within the constitutional power of the Senate to originate it.

Your committee on the part of the House maintained in reply:

That, according to the true intent and meaning of the Constitution, it is the right of the House of Representatives to originate all bills relating directly to taxation, including all bills imposing or remitting taxes; and that in the exercise of this right the House of Representatives shall decide the manner and time of the imposition and remission of all taxes, subject to the right of the Senate to amend any of such bills, originating in the House, before they have become a law.

These assertions of the true intent and meaning of the constitutional provision being directly at variance, and the conferees, after a long and full discussion, adhering in substance to their respective understanding and construction of the meaning and intent of the words referred to in the seventh section of the first article of the Constitution, it was agreed to close the conference, and that the conferees should report to their respective bodies their disagreement, and such further report as either of them might deem expedient in explanation of their disagreement.

The importance of the question involved in this conference is the apology of your committee for presenting at some length the reasons which controlled them in adhering to the principles they asserted in the joint conference.

To understand the subject fully requires an examination of the origin of the clause of the Constitution referred to, the construction hitherto given to it by the two Houses of Congress, and the construction given to it by learned commentators on the Constitution.

The members of the convention which framed the Constitution naturally looked to the British constitution as a model, and studied its provisions with care. The clause now under consideration was a subject of much discussion, of great deliberation, and of frequent conference in that convention, as affecting the balance of power between the Senate and House of Representatives, then deemed of great importance in its effect on the relations of the States having large territory and population with the smaller States of limited territory and population. The history of this clause shows that the language finally adopted was a compromise in the convention between those who advocated the adoption of the theory of the British constitution, and those who insisted that both Houses should have equal power to originate money bills. It was not a simple question of prerogative that was contended for, but an important principle was involved; the power to originate money bills being considered a safeguard against the oppression of the people by the Executive; and that the power should, for that reason, be lodged in the body which most nearly represented, and was most directly controlled by, the people.

For a fuller understanding of this subject we will briefly refer to the origin and growth of the provision, in the British Parliament, relating to money bills. The right of the Commons to originate them is of such ancient origin that there is no record of their right being questioned for three centuries prior to 1671. In that year, in a conference with the House of Lords, the Commons refused to furnish precedents to sustain the right, but asserted it as a fundamental right and the privilege of the Commons to originate all money bills. Previous to that time the Lords had amended that class of bills, when sent to them by the Commons, as appears from numerous cases in the journals of the Commons, in which the amendments of the Lords were agreed to. The Commons, in that year, advanced their claim further by a resolution "That in all aids given to the King by the Commons the rate of tax

ought not to be altered." And on July 3, 1678, the following resolution, adopted by the Commons, excluded the House of Lords from all power of amending such bills:

Resolved, That all aids and supplies, and aids to his Majesty in Parliament, are the sole gift of the Commons; and all bills for the granting of such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed by the House of Lords.

The Lords having acquiesced in the principle thus enunciated, all proceedings between the House of Lords and the Commons in matters of supply have since been based on this resolution; so that now this class of bills are never amended in the House of Lords, or changed in any way to affect the sense or intention of the Commons. Even in bills not confined to matters of aid or taxation, it has been held "that the Lords could not amend so as to alter the intention of the Commons with regard to the amount of the rate or charge, whether by increase or reduction, its duration, its mode of assessment, levy, collection, appropriation, or management, or the persons who shall pay, receive, manage, or control it; or the limits within which it is proposed to be levied."

This sole exercise of power, so resolutely maintained by the British House of Commons for more than five centuries, is founded upon the idea—

First, that the House of Commons is an elective body, for a limited period, and amenable to constituencies, composed of the body of the King's subjects;

Second, that the House of Lords is an hereditary body,the members of which continue for life; and that the body itself is perpetual, and can be increased according to the will of the sovereign; a body not amenable to the people, and being the creation of the King, is likely to be under his influence. This, in brief, is the history and practice in England relating to money bills.

In the United States, under the original articles of confederation, the General Government was maintained by requisitions made upon each State, apportioned upon the lands in the several States. This system of furnishing supplies to carry on the Government proved totally inadequate for that purpose, as some of the States refused or neglected to pass the necessary laws to comply with the requisition of the General Government, which was thus left dependent on the mercy or caprice of the different States of the confederation—a condition entirely inconsistent with every idea of vigor or efficiency in the Government.

Alexander Hamilton, speaking of this system, says: "The present confederation, feeble as it is, intended to repose in the United States unlimited power of providing for the pecuniary wants of the Union. But proceeding upon an erroneous principle, it had been done in such a manner as entirely to have frustrated the intention." So that, when the framers of our Constitution entered upon their great work, no one subject engaged their attention more seriously than that of taxation. Indeed, Mr. Hamilton says: "It is the most important of the authorities proposed to be conferred upon the Union."

The question of taxation at once presented itself in connection with the question of representation. Under the confederation each State had an equal voice; and the smaller States insisted that in any amendments to the "articles," or in the adoption of any new plan, the States should continue to have an equal voice. The larger States insisted that this was an unjust principle, and that either population or wealth, or both, should form the basis of legislative action; that unless a new rule

was adopted embodying these ideas, it would be within the power of the small States to impose unjust burdens upon the large States; or, as Dr. Franklin stated in the convention:

> The diversity of opinions turns on two points. If a proportional representation takes place, the small States contend that their liberties will be in danger. If an equality of votes is to be put in its place, the large States say their money is in danger. (Elliott's Debates, vol. 5, p. 226.)

This contest for power between the large and small States is the origin of the clause in our Constitution now under consideration.

After long deliberation and diverse action in the convention, the equality of the States was recognized in the constitution of the Senate, thus giving small States like Rhode Island and Delaware an equal voice and power in that body with large States like Virginia and New York.

This great concession to the small States was counterbalanced by the provision that "money bills" should originate in the House of Representatives, where the people were represented according to numbers.

The clause relating to "money bills" was first introduced by Mr. Charles Pinckney, in his plan of a Federal Constitution; and afterward authoritatively introduced by Dr. Franklin in the committee which reported it.

Afterward, when, on motion of Mr. Mason, it was voted to postpone temporarily the clause relating to "money bills," in order to take up the clause relating to equality of votes in the Senate, Dr. Franklin said:

> That this question could not be properly put by itself, the committee having reported several propositions as mutual conditions of each other; he could not vote for it if separately taken, but should vote for the whole together.

Mr. Mason, of Virginia, agreed with Dr. Franklin, and suggested a reference to the committee, "that the whole might be brought into one view."

Mr. Mason, on another occasion, said:

> The consideration which weighed with the committee was that the first branch would be the immediate representatives of the people; the second would not. Should the latter have the power of giving away the people's money, they might soon forget the source whence they received it. We might soon have an aristocracy. * * * He was a friend to proportional representation in both branches; but supposed that some points must be yielded for the sake of accommodation. (Page 283.)

Dr. Franklin observed: * * * * "that it was always of importance that the people should know who had disposed of their money, and how it had been disposed of. It was a maxim that those who feel can best judge. This end would be best attained if money affairs were to be confined to the immediate representatives of the people." (Page 284.)

Mr. Mason said, in emphatic words:

> If the Senate can originate they will, in the recess of the legislative session, hatch their mischievous projects for their own purposes, and have their money bills "cut and dried" (to use a common phrase) for the meeting of the House of Representatives.

Mr. Gerry, in reply to Mr. Wilson, observed that he "would not say that the concession was a sufficient one on the part of the small States, but he could not but regard it in the light of a concession. It would make it a constitutional principle that the second branch were not possessed of the confidence of the people in *money matters*, which would lessen their weight and influence. * * * They would be deprived of the opportunity which their continuance in office three times as long as the first branch would give them of making three successive essays in favor of a particular point." (Page 283.)

Mr. Pinckney thought the concession wholly on the part of the large States, the privilege of originating money bills being of no account. (Page 283.)

On the report of the Committee of Eleven, we find these two propositions considered together as dependent.

Mr. Rutledge moved to reconsider both propositions.

Mr. Sherman "was for the question on the whole at once. It was," he said, "a conciliatory plan, * * and if any part should now be altered it would be necessary to go over the whole ground again."

Mr. Gerry said he "did not approve of a reconsideration of the clause relating to money bills. It was of great consequence. *It was the corner-stone of the accommodation.*"

Afterward, the clause in relation to money bills having been struck out,

Mr. Randolph moved to reconsider, and "called upon the smaller States to concur in the measure as the condition by which alone the compromise had entitled them to an equality in the Senate." (Page 410.) The clause was reconsidered, nine States voting in the affirmative; Maryland in the negative, and South Carolina divided.

Mr. Gerry again said he "considered this as a part of the plan that would be much scrutinized. Taxation and representation are strongly associated in the minds of the people, and they will not agree that any but their immediate representatives shall meddle with their purses. In short, the acceptance of the plan will inevitably fail if the Senate be not restrained from originating money bills."

In a subsequent report of the Committee of Eleven they provided, in the third clause of their report, that "all bills for raising revenue shall originate in the House of Representatives, and shall be subject to alterations and amendments by the Senate."

When this clause was reached, Mr. Gouverneur Morris moved to postpone its consideration, stating that "it had been agreed to in the committee on the ground of compromise, and he should feel himself at liberty to dissent from it, if, on the whole, he should not be satisfied with other parts to be settled." (Page 511.)

It was postponed until near the close of the great debate, when it was taken up; that portion relating to amendments was stricken out, and the words used in the constitution of Massachusetts were inserted, viz: "But the senate may propose or concur with amendments as in other bills," and the clause, thus amended, was passed—nine States voting in the affirmative, and only Delaware and Maryland voting in the negative.

Mr. Elliott, in his Notes, says "this provision passed in pursuance of a compromise," and says that "this explains the compromise alluded to by Mr. Gouverneur Morris. Colonel Mason, Mr. Gerry, and other members from large States set great value on this privilege of originating money bills. Of this the members from the small States, with some from the large States, who wished a high-mounted government, endeavored to avail themselves by making that privilege the price of arrangements in the Constitution favorable to the small States and to the elevation of the Government."

We have thus given a brief history of the first clause of the seventh section, and the compromises and adjustments which led to its insertion in the Constitution. A careful study of the debates will disclose that in all the discussions the words inserted were used as synonymous with the words "money bills," as used in the British constitution. It seems to us, therefore, that a fair interpretation of this clause, whether derived from the interpretation given to it by reason of its analogy to the British constitution, or from the debates of the convention, is, that all bills directly affecting the revenue shall originate in the House of Repre-

sentatives; or, as Mr. Webster declared, in debate upon this clause in 1833:

> This provision was taken from the practice of the British Parliament, whose usages were well known to the framers of the Constitution, with the modification, that the Senate might alter and amend money bills, which was denied by the House of Commons to that of Lords.

We shall now consider the practice of the Government under this clause, and in commencing assert that, with few exceptions, all the great financial measures necessary to carry on the Government, whether by means of taxation or appropriation, have originated in the House of Representatives.

It is curious to observe the analogies between our Government and that of Great Britain with reference to the subject of taxation and supply, with a view to a correct interpretation of the clause under consideration. One of the great reasons given by the Commons why the Lords should not meddle with money bills was, that the House of Lords was a perpetual hereditary body, whilst the Commons was an elective and a temporary body.

The Senate is a continuous and perpetual body, each one of its members holding through three successive Congresses, and the tenure of office of only one-third of the body expiring at any one period; whilst the House is subject to the direct will and voice of the people by the election every alternate year of the whole body of representatives. The practice of the English Commons was to have all tax bills considered by a committee called the Ways and Means, and all appropriations were considered by a committee on Supply. Analogous to this the first Congress that assembled provided a Committee of Ways and Means that should originate all revenue measures, whether of taxation or appropriation.

The same Congress also borrowed another rule from the Commons, that this class of bills should be first considered in committee of the whole House on a day fixed, so that free discussion should be permitted, and unlimited amendment allowed.

Under these rules the right to originate not only tax and tariff bills, but also appropriation bills, was conceded to the House of Representatives, until February 22, 1832, when Mr. Clay submitted certain resolutions in relation to the tariff, by which it was proposed to repeal the duties on all articles of importation not coming into competition with similar articles manufactured in the United States, except wines and silks, and to reduce the duties on these articles. These resolutions were referred to the Committee on Manufactures, which committee, on the 30th of March, made a long report, accompanied by a bill proposing an absolute repeal of certain duties, stating that, "to correct such parts of our laws as imposed unnecessary burdens, and to reduce or modify the duties in cases where it may be done without injury to our manufactures, is a subject of inquiry which will occupy the most serious attention of the committee. But a bill so reducing and modifying duties, if not subject to objections on constitutional grounds as a bill for raising revenue, which can only originate in the House of Representatives, will require much investigation, which the committee will bestow upon it with all the diligence which their other indispensable duties will permit."

This report led to a long debate on the constitutional power of the Senate to originate bills raising revenue, in which Mr. Dickerson asserted that, in his opinion, it was within the power of the Senate to repeal a duty, but not within the power of the Senate to reduce.

In reply to which Mr. Mangum said:

Sir, I mean not to discuss the constitutionality of originating in the Senate a revenue bill; yet I certainly was much struck with the novel view offered of the Senator from New Jersey, that the Senate might repeal *in toto* all duties on unprotected articles, but could not properly reduce duties on the other class. He doubts; he has scruples. He can abolish, but not reduce. Does not the Senator see that by abolishing duties on all unprotected articles he, in fact, increases the duties on the protected class; or, in other words, enhances the protection? As it is obvious to everybody else, I should do the Senator great injustice to suppose that it is not equally obvious to him. And besides, if there be any meaning in that part of the Constitution which requires that revenue bills shall be originated in the other branch of Congress, I suppose it to mean that the immediate representatives of the people shall be as well the judges of the proper objects of taxation as of the amount of the revenue. Indeed, the selection of the objects of taxation is not only the most undoubted, but, in fact, the most interesting power of the other House. But by the course proposed here, the Senate originates a bill not only striking out more than half the subjects of taxation heretofore adopted, but accumulates the whole revenue upon a few subjects, and in the selection of which the House, in the first instance, is not consulted.

Mr. Tazewell, in the course of the debate remarked: "Whence do you derive your power to originate a revenue bill? It was not to be found in the Constitution;" and entered into a full and luminous exposition of the constitutional question.

Then, on motion of Mr. Dallas, the bill was laid on the table.

The question again came up in the Senate in 1833, when, at a time of great political excitement, reaching almost to rebellion, Mr. Clay, with a patriotic purpose, brought forward in the Senate his compromise tariff bill to reduce existing rates of duty on imported articles.

The leading minds of the Senate revolted at what seemed to them an unconstitutional exercise of power, and the authority of the Senate under the clause now under consideration was debated by the ablest lawyers of that body.

In this debate Mr. Webster broke forth in language which clearly indicated the dangers which might result from an attempt to amplify the powers of the Senate, declaring that "the constitutional question must be regarded as important; but it was one which could not be settled by the Senate. It was purely a question of privilege, and the decision of it belonged alone to the House. The Senate, by the Constitution, could not originate bills for raising revenue. It was of no consequence," he said, "whether the rate of duty were increased or decreased;" and with singular accuracy, following the language of the framers of the Constitution, he said:

> If it was a money bill, it belonged to the House to originate it. In the House there was a Committee of Ways and Means organized expressly for such objects. There was no such committee in the Senate. The constitutional provision was taken from the practice of the British Parliament, whose usages were well known to the framers of the Constitution, with the modification that the Senate might alter and amend money bills, which was denied by the House of Commons to that of Lords. This subject belonged exclusively to the House of Representatives.

Other Senators took the same view. On the very introduction of the measure Mr. Forsyth objected "that the bill was a violation of the Constitution, because the Senate had no power to raise revenue. *Two years ago*, the same Senator made a proposition, which was rejected on this very ground." (Gales & Seaton's Reg., vol. 9, part 1, p. 473.)

Mr. Clay said, "The bill was not a bill to raise the duties, but to reduce them, and therefore did not come within the reach of an equitable objection. If it had been a bill to raise the rate of duties, the objection to it would have been a valid one. * * * * He did not believe that it was the intention of the Constitution so far to restrict the right of the Senate as to preclude the origination of a bill to repeal any existing law." (Ibid., p. 478.)

Mr. Dickerson said, "Whether the rate of duty was raised or lowered, the law was equally one for raising revenue within the Constitution. The distinction was an absurdity."

Mr. Silsbee said, he could not vote for the bill in the face of the Constitution, which expressly prohibited its originating in the Senate.

Mr. Frelinghuysen regarded the constitutional difficulty as altogether insuperable. Having taken a solemn oath to support the Constitution, he could not, however agreeable to his wishes, give his assent to a measure originating in the Senate, in violation of its express provision.

On the 25th of February, after a long and weary discussion, extending far into the night, Mr. Clay said:

Inasmuch as it was represented that the House of Representatives had just now passed a bill similar, if not identical, in its provisions to the one before the Senate; and it is believed it would, to-morrow, be presented to the Senate to sanction, it would obviate the reasons for a longer continuance of a laborious day's session of this body, and also supersede the objections of some Senators who believed the Senate was not the proper place for the origin of this bill. He therefore moved that the Senate adjourn.

The next day the Senate bill was ordered to lie on the table. And on the 27th the House bill was taken up in Committee of the Whole, and, on motion of Mr. Clay, reported to the Senate; Mr. Clay stating, in reply to an inquiry, that he believed it corresponded, word for word, with the Senate bill.

On Friday, March 1, the House bill was read a third time, and put on its passage, and passed, 29 to 16.

As a precedent this may be regarded as an abandonment, at that time, by the Senate of the power to originate, and the emphatic assertion of the power on the part of the House.

In 1837 the Senate passed a bill to authorize the issuing of Treasury notes, which was sent to the House, and the question of the power of the Senate being raised, it was decided, without the yeas and nays, to lay it aside and take up a House bill reported from the Committee of Ways and Means, having the same object, and the Senate bill was not again heard of. (House Journal of 1837, p. 212.)

The question again appeared in the Senate in 1844, Mr. McDuffie introducing a bill to revive the act of March 2, 1833, known as the compromise tariff act, and modify the existing duties upon foreign imports in conformity to its provisions; the effect of which would be to largely reduce the duties and rates of duty provided for by the tariff act of 1842.

The question of power, together with the bill, was referred to the Senate Committee on Finance, and on the 9th of January, 1844, was reported back to the Senate from that committee by Mr. Evans without amendment, accompanied with the following resolution:

Resolved, That the bill entitled "A bill to revive the act of the 2d of March, 1833, usually called the compromise act, and to modify existing duties upon foreign imports in conformity with its provisions," is a bill for raising revenue within the meaning of the seventh section of the first article of the Constitution, and cannot, therefore, originate in the Senate. Therefore, resolved, that it be indefinitely postponed.

These resolutions led to a long debate in the Senate, extending through a period of sixty days, upon their power to originate such a bill, during which the general subject was ably discussed.

Mr. Berrien quoted several motions of amendments in the debates of the convention, to show that such bills were always spoken of as money bills, including all revenue bills, the object of which was to raise money by taxation for revenue. Hence, he argued, there was no constitutional authority to originate this bill in the Senate. (Cong. Globe, vol. 13, p. 493.)

Mr. Benton said: "In all cases of doubtful jurisdiction between the two Houses, my rule is to solve the doubt in favor of the House, which, by the Constitution, is charged with the general subject. Taxation and representation go together. The burdens of the people and the representation of the people are put together. The immediate and full representation of the people is in the House of Representatives."

Mr. Benton, in this debate, avowed himself in favor of the principle of the McDuffie bill, so far as its effect would be to relieve the people of burdens imposed by the tariff act of 1842; yet he asserted that "the burdens of the people and the representation of the people are put together" in the House of Representatives, and "he would defer to the jurisdiction of the House, which is charged with the general subject."

After a full and protracted debate, the resolutions of the Senate Finance Committee were adopted with but four dissenting votes.

This question again came up in 1856, in a different form, and under peculiar circumstances of great political excitement. The House of Representatives did not elect a Speaker until the 6th day of February, so that no business was transacted in the mean time, the House being without committees. This contest, from day to day, made it quite apparent to the sagacious statesmen then in the Senate from the Southern States, that the political power of the House was about to pass from the men who had controlled it for many years; and, under a resolution proposed on the 11th of December, 1855, by Mr. Brodhead, "that the Committee on Finance be directed to inquire into the expediency of reporting the appropriation bills for the support of the Government, or adopting other measures with a view of obtaining more speedy action on said bills," it was sought to amplify the powers of the Senate, so as to bring within their original jurisdiction authority to originate the great appropriation bills necessary to carry on the Government; a power which, up to that time, had remained undisputed in the House of Representatives.

Mr. Brodhead, in explanation of this resolution, on the 7th of January, admitted in debate that, as to revenue bills, there was no doubt of the original right of the House. But the provision in the seventh section did not preclude the Senate from originating appropriation bills; and he argued, with great plausibility and force, that the delays on the part of the House rendered it impossible for the Senate to fairly and fully consider these bills after they came from the House. The resolution was then passed; and on the 4th of February, Mr. Hunter reported back, from the Committee on Finance, the following resolution:

> That the Committee on Finance be instructed to prepare and report such of the general appropriation bills as they may deem expedient.

Coupled with a statement that most likely an arrangement could be made with the House for a division of this labor, so as to expedite the business of the two Houses.

In the debate on this resolution, Mr. Seward, Mr. Sumner, and Mr. Wilson made able and conclusive arguments against the assumption of this power, claiming that, although within the strict letter of the Constitution, such exercise would be a violation of the spirit and intendment of the first clause of the seventh section of the first article.

Mr. Sumner said: "The proposition is a clear departure from usage, and on this account must be regarded with suspicion. A slight examination will demonstrate that it tends to the subversion of well established landmarks."

Mr. Seward said: "I think, then, sir, I stand upon the principle and the spirit of the Constitution of the United States in advising against the instruction which is asked for by the Committee on Finance."

Mr. Wilson said: "At this time, in the present position of affairs, I hope the Senate will make no change whatever; for if that change be made, it will be regarded by the country, whether it be so intended or not, as an attempt to increase the power and the influence of the Senate, which represents the States of the Union, at the expense of the House of Representatives, which represents equally the people of the country."

This resolution was adopted by the Senate, and, under it, two of the great appropriation bills were prepared and passed the Senate, of which the House took no notice whatever, but originated and passed the appropriation bills, and sent them to the Senate; thus adhering to the practice, which up to that time had been uniformly maintained, that of originating appropriation bills in the House.

The Senate conferees submitted a number of citations of laws originating in the Senate, which they claimed as precedents favoring the action of the Senate on the bill, which is the subject of the present difference.

The committee have carefully examined these precedents, and do not see in them any argument to sustain the Senate views. They seem to be, generally, bills intended to carry out, in good faith, treaty stipulations and commercial regulations arising under treaties with foreign countries. It is true that two of the acts cited reduced existing rates of duty, which reduction was acquiesced in by the House without raising the question of power. But it seems to your committee that one or two instances of waiver cannot be considered as a surrender, on the part of the House, of a great constitutional privilege.

PRECEDENTS. (See Statutes at Large.)

First. Vol. 3, p. 224, ch. 77. A bill repealing tonnage and other discriminating duties in favor of such nations as shall abolish discriminating duties; and is more in the nature of a treaty than an act.

Second. Vol. 3, p. 23, ch. 94.

An act providing police regulations for the collection of customs already provided for and in no sense levies taxes. It only provides penalties for the infringement of those police regulations.

Third. The citation, ib., p. 563, ch. 44, is an appropriation bill originating in the House. See House Journal, 3d session, 13th Cong., p. 668.

Fourth. Vol. 4, p. 154, ch. 26, is in the nature of a treaty, and provides for reciprocal duties with the republic of Colombia; and is in no sense a revenue bill.

Fifth. Ib., p. 308, ch. 11, is a similar provision relating to reciprocal duties with Prussia.

Sixth. Ib., p. 625, ch. 219, repeals the tonnage duties upon ships of the United States and also upon foreign vessels, when other countries shall abolish countervailing duties. So far as this abolishes duties upon the tonnage of ships and vessels of the United States, it possibly might be regarded as a revenue measure. But it would have been manifestly unjust to have retained this tonnage duties on American vessels when it was abolished as to all foreign vessels.

Seventh. Ib., p. 635, ch. 58, is an explanatory act, intended to apply to certain goods imported prior to a certain time, and which, under the act to which it is explanatory, would be obliged to pay a higher rate of duty than was provided by that act. The act is specific in its character, and cannot be regarded as altering or amending any existing rate of duty.

Eighth. Ib., p. 717, ch. 139, provided simply that all lead should be considered as in pigs, bars, and sheets, if it did not exceed twice the value of the raw material. This undoubtedly, to some extent, changed the rate of duty, but was explanatory only in its character.

Ninth. Ib., p. 778, ch. 44, seems to be a case in point, where the rates of duty upon certain articles might be changed if the law had not passed; but, in terms, seems to be a suspension of a law for a single session of Congress. It appears to be a further suspension of proviso to the tenth and eleventh clauses of the act July 14, 1832, which proviso relates to *ad valorems*.

Tenth. Vol. 5, p. 125, ch. 359, is an act to suspend the discriminating duties upon goods imported in vessels of Portugal, and to reduce the duties on wines one-half.

Eleventh. Ib., 61, ch. 233, is explanatory of an act which declared that iron prepared for railways or inclined planes should not be construed so as to include spikes, pins, or chains for railways.

Twelfth. Ib., p. 732, ch. 43, is an act to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenue of the Post Office Department.

Thirteenth. Vol. 11, p. 192, ch. 98, is a House bill. See House Journal, 34th Congress, 3d session, page 550, bill 566.

Fourteenth. Vol. 12, p. 313, ch. 46, is a loan bill, supplemental to the act of July 17, 1861, and merely relates to matters of detail, but does not provide for an increase of the public debt.

During the twenty-seventh Congress a bill to authorize the issue of five millions of Treasury notes passed the House of Representatives, with a proviso that the amount of such notes issued under the authority of this act should be deemed and taken in lieu of so much of the loan bill known as the twelve million loan act, the effect of which was not to increase the amount of the loan. The bill was sent to the Senate, where it was amended by striking out the proviso, the effect of which was to increase the loan to the extent of five millions. When the bill came back to the House, Mr. Roosevelt raised the question whether or not the Senate could make such an amendment to the bill without infringing upon the right of the House to originate money bills.

The Speaker decided that the point raised was a question of constitutional power between the two Houses, and was not a question of privilege, which, in his opinion, it was his duty to submit to the House. The decision of the chair was sustained. The House do not deny the power of the Senate to amend any particular bill relating to revenue, whether a loan bill, a tax bill, or an appropriation bill, which is all that was decided in this case.

There are instances where the House has acquiesced in the Senate bills merely for the purpose of facilitating legislation; as, for example, during the present Congress the Senate passed what was known as the funding bill or loan bill, and sent it to the House; where it was referred to the Committee of Ways and Means; but the committee considered and matured a bill of their own, which was reported to the House and passed. Immediately afterward the committee reported back the Senate bill, and moved the bill that had passed the House as a substitute, for the purpose of getting a ready conference upon the bill; thus, on the record, apparently acquiescing in the action of the Senate; but this could not be quoted as a precedent against the privilege of the House, because, for reasons of convenience, the question was not raised.

Nor can any of the examples cited by the Senate committee fairly be considered as an acquiescence on the part of the House of the power to originate this class of measures in the Senate, or a surrender of the privilege of the House.

The commentators upon this clause of the Constitution, so far as they have undertaken to interpret its meaning, we think, sustain your committee in their interpretation.

Mr. Justice Story, in discussing this clause, says, (Sec. 876 of Story on the Constitution:)

> That it is fit the House should possess the exclusive right to originate money bills, since it may be presumed to possess more ample means of local information, and it more directly represents the opinions, feelings, and wishes of the people; and being directly dependent on them for support, it will be more watchful and cautious in the imposition of taxes, than a body which emanates exclusively from the States in their political capacity.

Judge Tucker says: "Now, as the relation between taxation and representation in one branch of the legislature was fixed by an invariable standard, and as that branch of the legislature possesses the exclusive right of originating bills on the subject of revenue, the undue weight of the smaller States is guarded against effectually in the imposition of burdens." (1st Tucker's Blackstone, Appendix 195.)

Again, discussing the clause relating to the power of Congress to coin money, and regulate the value thereof, &c., he asserts that "every bill for this purpose, or for any other by which a revenue may be raised, should originate in the House of Representatives." Then, alluding to the fact that such a bill originated in the Senate, he says:

> The reason of the acquiescence of the House of Representatives on these occasions probably was, that no revenue was intended to be drawn to the Government by these laws; whereas, strictly speaking, a revenue is raised by the act establishing the mint. (Ibid., 261, 262.)

It is claimed on the part of the Senate committee that the term "raising revenue" in the Constitution relates to the imposition and not to the absolute remission of taxes. Your committee cannot conceive any good reason for such distinction.

On this point the action of the House of Commons furnishes us with an important precedent; and we are sustained in this view by full quotations, already cited, from Mr. Webster, Mr. Mangum, and other eminent constitutional lawyers.

In 1860 the House of Commons asserted its paramount authority both in the imposition and repeal of taxes. During that year the Commons determined to increase the property tax and stamp duties and repeal the duty on paper. This was done in two separate bills. The Lords assented to the increased taxation bill but rejected the paper duties repeal bill, and thus overruled the financial arangements(as Mr. May expresses it) voted by the Commons.

To meet the assumption on the part of the Lords, the Commons resolved:

> That to guard for the future against the undue exercise of the power of rejection by the Lords, and to secure to the Commons their rightful control over taxation and supply, this House has in its own hands the power so to impose and remit taxes and to frame bills of supply, that the right of the Commons as to the matter, manner, measure, and time may be maintained inviolate.

It is assumed that, because the bill under consideration is for the purpose of absolutely repealing a tax, the Senate has jurisdiction. But it seems to your committee clear that if the Senate can repeal one tax they can repeal another, and thus originate measures affecting the entire system of taxation. If, instead of repealing the income tax, the Senate had originated and passed a measure repealing all laws imposing duties on imports, it would at once become necessary for the House to originate another measure imposing taxes to make up for the deficiency created by this great loss of revenue. It seems to us plain that this would be an interference with the present system of taxation, and virtually the surrender of the power to originate tax measures according to the will of the House. The Secretary of the Treasury insists that he cannot spare the revenue now provided for by means of the tax on incomes without danger of a deficiency. Assuming this to be true, the House would be compelled at once to impose some new tax to counterbalance the loss whichwould ensue from this repeal.

It seems clear to your committee, therefore, that the only way to preserve, in its fullness, the power to originate bills for raising revenue, is to insist upon the right of the House to originate all bills relating directly to the revenue, whether imposing or remitting taxes; that the House should, in the first instance, be the judge of the manner, the measure, and the time of such impositions or remissions.

The same principles on which the House secured to itself the power to exclusively originate those measures of legislation imposing taxes, apply with equal force to the right to originate measures for a remission of taxes. They are so manifestly co-related that it seems wholly illog-

ical for the Senate to assume the right of the one, and at the same time acknowledge the constitutional restraint which prohibits the exercise of the other.

Mr. Mangum, in the Senate, stated this principle so clearly, and in language so plain, that we again repeat his words:

> If there be any meaning in that part of the Constitution which requires that revenue bills shall be originated in the other branch of Congress, I suppose it to mean that the immediate representatives of the people shall be as well the judges of the proper objects of taxation as of the amount of revenue. Indeed, the selection of the objects of taxation is not only the most undoubted, but in fact the most interesting power of the other House.

Then, alluding to the bill under consideration in the Senate, which was a bill absolutely repealing duties upon certain imported articles, he further says:

> But by the course proposed here, the Senate originates a bill not only striking out more than half the subjects of taxation heretofore adopted, but accumulates the whole revenue upon a few subjects, and, in the selection of which, the House in the first instance is not consulted.

Your committee think the assertion of the proper privileges of this House in relation to money bills important, in order to preserve that balance of power and influence which the framers of the Constitution intended should be maintained when the clause under consideration was inserted in that instrument, and therefore present, for the consideration of the House, the accompanying resolution:

Resolved, That this House maintains that it is its sole and exclusive privilege to originate all bills directly affecting the revenue, whether such bills be for the imposition, reduction, or repeal of taxes; and in the exercise of this privilege, in the first instance, to limit and appoint the ends, purposes, considerations, and limitations of such bills, whether relating to the matter, manner, measure, or time of their introduction; subject to the right of the Senate to "propose or concur with amendments, as in other bills."

S. HOOPER.
WM. B. ALLISON.
DAN'L W. VOORHEES.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 43.

NORMAN WIARD.

FEBRUARY 28, 1871.—Ordered to be printed.

Mr. A. COBB, from the Committee of Claims, made the following

REPORT.

[To accompany bill H. R. No. 1195.]

The Committee of Claims, to whom was referred the bill (H. R. 1195) for the relief of Norman Wiard, make the following report:

Norman Wiard presents a claim against the Government, growing out of certain contracts made with the Ordnance Bureau of the Navy Department.

Nearly all the claim as now presented was made the subject of a favorable report from the Ordnance Committee of the House of Representatives, offered by Mr. Schenck, March 2, 1869, accompanied by a bill, (awarding $125,848 49,) which passed the House the same day. (See Congressional Globe, 3d Sess. 40th Congress, Part III, p. 1815.)

But before the bill passed by the House was acted upon by the Senate, a "letter" was addressed to the President of the Senate by the Secretary of the Navy, on the 31st day of March, 1869, purporting to transmit all the documents on file in said Department relating to the contracts with Wiard, and among them a letter from the Chief of the Ordnance Bureau, alleging that Wiard did, in November, 1865, make final settlement of all claims against that Department, and give a receipt in full therefor.

It is therefore necessary to inquire, in advance, into the reasons of such alleged settlement.

An examination of the papers furnished by the Navy Department, in support of this allegation, shows that about the time last mentioned Mr. Wiard presented a bill to the Ordnance Bureau, amounting to $6,223 05, being mainly for metal used in an imperfect casting of a large gun; that Captain Wise appears to have cut down the bill to the sum of $4,085, which he admitted to be due upon that bill, but refused to pay the amount so admitted to be due, unless Mr. Wiard would agree to receive the same in "full and final settlement of all his claims, of whatsoever nature, against the Navy Department."

Mr. Wiard appears to have given a receipt in the terms required. But it also appears, from the documents accompanying the Secretary's letter, that he was urged by pressing want to apply to the Bureau for relief; and that with the above bill he sent a letter, in which he protested against the official construction of an agreement to which he was compelled unjustly to submit, and by reason of which the said bill was unwillingly presented to the Navy Department for settlement.

It is only necessary to make this brief statement of the circumstances.

under which the receipt was given, to show that it can have no effect beyond the particular bill to which it is appended.

We come, then, to a detailed statement of Mr. Wiard's claim.

I. 50-POUNDER GUNS.

First, as respects the date of agreement, is the claim for the price of certain 50-pounder rifle guns.

It appears that as early as August, 1861, Mr. Wiard was in correspondence with the Ordnance Bureau of the Navy Department in relation to the construction of large guns.

After several conferences with Mr. Wiard, and some offers on his part, the following letter was addressed to him:

BUREAU OF ORDNANCE AND HYDROGRAPHY, NAVY DEPARTMENT,
Washington City, August 1, 1861.

SIR: In answer to your proposals of yesterday's date, I have to inform you that the Bureau, being desirous of procuring rifle cannon for the use of the Navy at the shortest possible notice, will purchase guns of your fabrication of semi-steel; *provided*,

1. That the guns made shall conform strictly to the directions and drawings herewith presented.

2. If you will offer five guns made as above stipulated, the Bureau will receive them, subject to proper inspection, and, if accepted, pay you at the rate of eighty-five cents (85c.) per pound.

3. It is to be distinctly understood that the Bureau is to be the judge of your compliance with the conditions of the agreement, and binds itself to the purchase of no more than may be ordered from time to time.

You will please notify the Bureau if you accept the terms herein specified.

Very respectfully,

AND'W A. HARWOOD,
Chief of Bureau Ordnance and Hydrography.

Mr. NORMAN WIARD, *Washington, D. C.*

This offer was accepted. Mr. Wiard promptly set at work to manufacture guns under this agreement.

It is to be noticed that the kind of material out of which the guns were to be manufactured was agreed upon between the parties; and that the model of the guns, as well as all measurements and directions, were to be furnished by the Government.

A lot of five guns were forged under this agreement, and an order was given for another lot of five. But directly after giving the order for this last lot of five, the Bureau added the further requirement that this second lot was to be submitted to "proof." This kind of test was not within the terms of the original agreement, which only required "inspection," and might well have been objected to by Mr. Wiard. But he seems to have accepted this new condition. The first five were finished and inspected, and the work upon the guns appears to have been satisfactory to the inspector.

The Bureau, however, before acceptance, required the test of "proof." This requirement, as to the first lot of five, was clearly outside of the terms of agreement, and was, therefore, unjust. The Bureau had inserted into the agreement the right to refuse further guns at any time after the completion of any lot of five; and, therefore, the manufacturer incurred great risk in undertaking to furnish any guns under that agreement. Therefore, upon satisfactory "inspection" of the first five, he would have had a just claim for the price of all of them upon the Government, except for this reason: In consequence of the mistake of an employé, and without the knowledge or fault of Wiard, a new or false chamber was inserted in one of the guns, which, it is alleged, could not readily have been detected by the inspector, and which would have been

rejected by him had he known the fact. We think, therefore, that but four guns of the first five should be paid for.

As the second lot of five is not clearly proved to have been undertaken before the condition of "proof" was insisted upon by the Bureau, and apparently concurred in by Wiard, we are inclined to the opinion that he is not entitled to pay for such of the second lot of five as did not endure the "proof."

The usual proof, and the one actually applied in this case, was ten charges.

Under this test one of the last five burst.

Two of the first lot had also been disabled under the test of "proof."

And upon the bursting of the last gun tested, the Bureau refused to have anything to do with any more of the guns, denied that they had in fact formally received any but the first, or, as it was called, "the trial gun," and, though two more of the guns had stood the ten-charge proof, and four more of the last lot of five were finished, refused to pay for any but the first, or trial gun, which had stood the test of at least three hundred and fifty charges.

The reasons given by the Bureau for refusal of payment have been carefully considered, but they are not sufficient to justify its action.

That the second lot of five, as well as the first, were finished and offered for inspection is proved by the letters of Commander Hitchcock to the Ordnance Bureau. If they were not inspected, and were not "proved," it is not the fault of Mr. Wiard.

It would therefore seem that Mr. Wiard should receive pay for the first five, less the price of the first gun, which was paid for, and of the gun with the false chamber; and that he should receive pay for the second lot of five, less the one disabled by the "proof."

And taking the prices as agreed upon, and the average weight as ascertained by the weights of several of the guns given by the Ordnance Bureau, the amount stands thus:

Three guns, 5,518 pounds each, 16,554 pounds, at 85 cents	$14,170 90
Four guns, 5,518 pounds each, 22,072 pounds, at 80 cents	17,657 60
	31,828 50

The amount allowed by the report of the Ordnance Committee, (before referred to,) under this head, was $42,180. But the documents furnished by the Navy Department, after the date of that report, show the propriety of the reduction that is now made, though they do not affect otherwise the reasoning or the conclusions of that report.

II. 7½-INCH GUNS.

Next, in respect to the date of the contract, is the claim for damages, caused by the abrogation of an agreement for finishing certain "gun-blocks" into 7½-inch guns.

This contract was made, like the first, by correspondence between the parties, which is furnished in the communication before referred to, from the Secretary of the Navy.

It seems that in October, 1861, the Navy Department had made, or was about to make, provision for the casting of large blocks of metal for guns of different calibers; and that Mr. Wiard was applied to by the Ordnance Bureau to state the price for which he would finish those blocks into guns.

On the 28th of October he offered to do the work on the 7½-inch guns for $750 each; and the offer was accepted.

The bargain was consummated by the Chief of the Bureau of Ordnance, through the intervention of Commander Harwood.

Representations were made to Wiard that a large number of blocks were to be finished, as is shown by the letters of the Bureau, stating the sources from which they were to come, in addition to the assurances made directly to Wiard by the Bureau officials.

Wiard's only responsibility was in finishing the blocks, furnished by the Bureau, according to certain measurements, drawings, and directions, also to be furnished by the Bureau.

As the work of finishing such large masses of metal into guns could not be done in ordinary machine shops, and must of necessity require a great outlay, it was of importance to Mr. Wiard to understand how many guns would be required by Government.

No specified number was agreed upon, but it is evident that both parties contemplated large and long-continued employment for the works to be established by Mr. Wiard.

And in addition to the correspondence of the Bureau before referred to, Commander Hitchcock, who was specially authorized to make the agreement in this particular case, says, in a letter dated May 17, 1862:

> The 7½-inch guns which were put into Mr. Wiard's hands to finish, seven in number, were progressed with until the work was stopped by the Bureau. *The work was undertaken with the expectation that a sufficient number of guns would be put into their hands to compensate them for their expenditure upon machinery and fixtures.* The guns were in part completed; and as it was no fault of Mr. Wiard's that they were not entirely so, I think it but just he should be paid the price agreed upon, $750; and I doubt if that will give them any profit.

Under this agreement, and with these representations, Mr. Wiard undertook to finish these gun-blocks.

The work required the construction of large lathes, or boring-mills, and a rifling-machine, together with all other suitable tools. It also required the construction of a building for the special accommodation of these lathes and tools.

The work was commenced immediately. At the outset there were some obstacles that hindered its progress; but the delay was only temporary. No complaint was made, by the Bureau or the inspector, that the work was not pushed forward with reasonable dispatch. On the contrary, the correspondence published by the Bureau indicates, rather, that Mr. Wiard was himself delayed by the negligence of the Bureau in not seasonably furnishing drawings and directions.

Seven blocks were furnished by the Government. Four of these were finished, and three were in the process of being finished, when the work was stopped without the assignment of any cause whatever.

There is no pretense that Mr. Wiard's work did not fully meet every requirement.

The Department at that time, December, 1861, was in need of every gun it could procure.

Mr. Wiard took the material as furnished by Government, and made the guns exactly as required, according to the Dahlgren pattern.

There had been invested, as will be afterward seen, $26,000 in new lathes and tools fit for no other purpose.

No reason was given for suspending the work, and no offer made as compensation for the now useless outlay for buildings and machinery.

In the published correspondence there are letters of the inspector, which admit the inference that the work was abandoned because the

Bureau had become convinced that the material out of which the blocks were made was unsuitable.

And the affidavit of Mr. Plass, one of the persons engaged in the fabrication of the guns, states that Commander Hitchcock told him at the time the work was stopped, that the Bureau did not intend to give any further orders until the form of the gun was modified.

But whether the work was stopped for one reason or the other, in neither case was the contractor responsible. He is entitled, therefore, to compensation for the damages sustained by him, to the extent that such damage accrued by failure of the Government to meet its engagements.

Throwing aside all prospective gains and incidental losses, the sworn testimony of Mr. Plass, whose firm made the expenditure for the lathes and other tools, is as follows:

Three lathes, (combining turning and boring machines,) each $6,000.	$18,000
One rifling machine	3,000
Shop for lathes	5,000
	26,000

Which seems not an unreasonable estimate for works of such magnitude.

Mr. Plass testifies that the shop consisted of a large brick building of one story, with stone foundations for the lathes, built upon leased land, for which no compensation was allowed by the owner when given up a few months afterward; that the lathes and rifling machine were of no value for any other purpose; and that, in fact, the only amount received for them was their value as old metal—say about one cent per pound. He further testifies that no profit was realized upon the seven blocks finished, being the first product of the experiment, and necessarily attended with greater expense than those to be made afterward.

It does not seem proper to allow the whole cost of the extra building above mentioned, though it might, for the reason alleged, have been a bad investment for the contractor. Allowing, however, half its value, and estimating the value of the old metal at $500 dollars, the damages to be allowed under this head would be $23,000.

III. 15-INCH GUNS.

The claim in this branch of the case is founded upon an agreement hereto annexed, marked "A," made between Norman Wiard and Gideon Welles, Secretary of the Navy, dated April 10, 1863. The contract contemplated the fabrication of 15-inch guns in accordance with drawings and descriptions furnished by Mr. Wiard. The object of both parties was evidently, at the time it was made, to give satisfactory opportunity to test the qualities of a gun in the principle of which Mr. Wiard, the inventor, had great confidence. It must have been evident that the outlay for such fabrication would necessarily be large on the part of the manufacturer; and, as there was great need of safe guns at that time, and as the expense to the Government, in case of failure upon trial, was comparatively small, the contractor had the right to expect that, in any event, he would be entitled to an opportunity to test his invention, in so important a matter, to the fullest extent which a liberal construction of his agreement would allow. He seems, therefore, to have made large investments in good faith, and to have set about the work with great energy.

The contract provided for two trials of the gun. Mr. Wiard made an attempt and failed in the casting, merely producing a shapeless mass of

iron. He made a second attempt, in which he produced an apparently good casting, which he finished. But the gun burst upon trial.

He made a third attempt and finished a second gun, which he offered for inspection and proof.

The Ordnance Bureau refused to receive it and annulled the contract, upon the ground that he had exhausted all the opportunities given him under the contract; and that the Government would not proceed further in the experiment.

Mr. Wiard protested that he had had but one trial; that the first shapeless mass was not a gun within the meaning of the contract; that he had not asked, and did not ask pay for the metal in that imperfect casting, and presented the last gun as the second gun made under that contract; and that he only expected to receive pay for the metal in the last-named gun, which was in a condition to be fired and proved, instead of for that in the abortive casting that was useless for anything.

But the Bureau persisted in its refusal, and finally paid for the metal in the worthless casting, which it was impossible to put to any test, instead of the metal in the finished gun, which was waiting to be proved.

Without suggesting that under such circumstances, in the midst of a great war, and under a pressing necessity for safe guns, an inventor was entitled to great liberality in the construction of such an agreement, after making a very large investment, which could produce no possible return, except in case of success, it would seem that, upon the strictest construction of the terms of the agreement, Mr. Wiard had a right to have his second finished gun proved by the Ordnance Bureau according to his request.

And upon the refusal of the Bureau to accept the gun offered for inspection and proof and the consequent annulment of the contract, the Government is liable for the damages consequent upon the breach of the agreement.

In estimating these damages two views are suggested:

First. Inasmuch as the claimant made a large investment, which would be, of necessity, almost wholly lost in case the experiment failed, or in case the Government did not carry out its part of the agreement, and inasmuch as a strong inducement to such investment was not only the promise of the Department contained in the agreement under consideration, but also the encouragement held out by both the Navy and War Departments for the manufacture of an unlimited number of such guns, in case of success, it is therefore claimed that the contractor is entitled, the Bureau being in fault, to receive the amount proved to have been lost by such investment.

This is the view taken by the report of the Ordnance Committee before referred to. And they appear to have had satisfactory proof that the amount invested was $83,668 49. Deducting from this, however, the amount now proved to have been realized from the sale of machinery, tools, &c., after the work was stopped, (namely, $13,761 77,) and the actual loss is reduced to the sum of $69,906 72.

Another view is this: Mr. Wiard was working under an agreement, the provisions of which were specific and clear as to the number of guns which, in any event, the Government was required to take. That number was twenty. And in case of breach of contract, by the Government, the loss to the contractor must be confined to the profits which he would have made, had opportunity been given to fabricate the contract number. If those profits—as they must have proved to be in this case—should be only a small part of the expenditure necessary to

the production of the first guns, it is nevertheless all that could be expected under the contract. And though the contractor might have had—as he thinks he had reason to have—large expectations of business, and consequent profits, in case of success; yet, claiming damages as he does, under a particular contract, he must be satisfied with the rule of estimating damages which gives him only the amount of the probable profits that would have come to him from the number of guns which the Government had, in case of successful experiments, agreed to receive.

And this is the view which the committee, after careful consideration, is constrained to adopt.

The Navy Department did not undertake to indemnify the contractor for whatever might be the loss growing out of his expenditure. Like any other party, the Government should be held liable for the loss legitimately consequent upon the failure to fulfill its engagements. But it can properly be held to no further obligation.

The breach of the contract in this case did not grow out of that part of it which relates to the receiving of the twenty guns. But as the Department agreed that the proof of the second trial gun was to be, partly, at its own expense, and to be conducted, after inspection, by an ordnance officer; and as it was only after proof so conducted, and satisfactory to the Bureau, that any more guns would be ordered, or accepted even for proof; and as the Bureau definitely refused to make such inspection and proof of the second gun when offered, it is clear that any further attempt to execute the agreement on the part of the contractor would only result in useless expense.

The Department therefore caused as effectual a breach of agreement by refusal to inspect and prove the second gun as it could have done, at any future time, by refusal to receive guns after a satisfactory test.

The weight of each gun was to be 43,000 pounds, which, at 16 cents per pound, as agreed, would be $6,880. Twenty guns at $6,880 each, $137,600.

Under all the circumstances of the case, it is not unreasonable to estimate the probable profits at 20 per cent. upon the cost. amounting to $27,520, which is awarded as due, under this branch of the claim.

IV. The Frémont batteries.

In this case the claimant bases his claim upon a certain contract "made and entered into on the 23d day of September, 1861, between the United States, represented by Captain C. F. Callender, U. S. ordnance officer in command of the U. S. arsenal at St. Louis, Missouri, who was acting under the immediate orders of Major General John C. Frémont, commanding the Western Department."

The claim is stated thus:

The claimant was to receive for the first two batteries of 6 and 12-pounder guns the sum of $11,500 each	$23,000
And for the two batteries 12-pounder guns, the sum of $12,400 each	24,800
Aggregate	47,800
Less amount received from part of these guns and stores, sold for storage	9,360
Leaving a balance due the claimant	38,440

The contract thus alleged to have been made at St. Louis is not produced, nor any copy thereof. The reason for not producing the contract is, as testified by the only witness in the case, that he delivered it,

among other private papers of Mr. Wiard, to General Ripley, and was not able afterward to get it back.

The statement of its contents, by the witness produced to prove it, is indefinite and unsatisfactory.

The guns were never inspected, nor proved; it does not appear that they answered the material requirements of the contract, whatever they may have been; nor is it clearly shown what disposition was finally made of a large part of them.

But were the terms of the agreement, its performance by the claimant, and the amount of damages more clearly proved, there would yet remain the grave question whether damages should be allowed for breach of a contract made, under such circumstances, when not approved by the Ordnance Bureau, and when no beneficial result accrued to the Government. Upon that point, however, there is now no need to express an opinion.

For the reasons first assigned, the claim should be rejected.

V. STEAMERS AUGUSTA AND SAVANNAH.

This branch of Mr. Wiard's claim is stated thus:

Norman Wiard, at the instance of the Hon. Peter H. Watson, Assistant Secretary of War, constructed two iron-plated steam transports, called the Augusta and the Savannah. The steamers, after inspection, were approved.

A negotiation as to price of the steamers arose between Mr. Wiard and those representing the Government, and on the 3d November, 1864, Mr. Wiard submitted to General Meigs, Quartermaster General United States Army, a proposition to sell the Augusta for $80,000, delivered at Hampton Roads, Fort Monroe, or Norfolk; the payment to be made as follows: $50,000 on the receipt in New York of orders to despatch the steamer; $30,000 upon her safe arrival at her destination as above. That the risk of navigation and by fire should be borne thus: $50,000 by the Government, and $30,000 by Mr. Wiard; for which $30,000 he stated he would obtain insurance. Mr. Wiard also proposed to furnish the crew, coal, and stores at his own expense for the trip, but required return transportation for the captain and chief engineer. Mr. Wiard offered the Savannah on the same terms.

On 29th November, 1864, the Government, by Colonel George D. Wise, who was chief of Bureau of Ocean and Lake Transportation, accepted the offer of sale of the Augusta and Savannah, on condition that Mr. Wiard deliver them in good order at Hilton Head, South Carolina.

Mr. Wiard agreed to this proposition, provided the Government found the coal and fuel. (See memorial as to coal and fuel, sworn to by Wiard and O. M. Beach, page 9, letter of Colonel Wise, November 29, 1864.)

On the 8th of December, 1864, the Augusta was dispatched. On 10th December,-1864, Mr. Wiard applied for the $50,000, and on 15th December, 1864, Colonel Wise answered that "the Augusta is not considered the property of the Government until she arrives at Hilton Head, and is delivered in good order." (See memorial, page 8.)

The Augusta went ashore on Cape Henlopen, and was damaged.

Mr. Wiard's claim is for—

1. Five-eighths of what the insurance company charged for the repairs, being	$21,254 17
2. Interest on $100,000, being the first payment for the two steamers, from time it was to have been paid until paid	2,346 90
3. An extra pump on Augusta	600 00
4. Chains and sails retained by the officer at Hilton Head, (proven by memorial, page 19, sworn to by Wiard and O. M. Beach)	1,219 25
Total amount claimed	25,511 12

After a careful consideration of all the proofs and documents submitted in this part of the case, the committee have come to the conclusion that the Government only accepted the offers of the claimant for the sale of the vessels upon the modified terms of *delivery of the transports in good order at Hilton Head, South Carolina.* Therefore, the incidental costs of repairs, in transitu, and the interest charged, in the first

and second items, amounting to the sum of $23,001 07, in their judgment, form no just claim against the Government.

The Quartermaster's Department was responsible for nothing, having supplied the vessels with coal and fuel, according to the modified terms of the claimant's agreement, until the same should be delivered in good order at Hilton Head.

But, for the safety of these vessels on a winter voyage, the extra steam-pump, chains, and sails, charged in the third and fourth items, amounting to the sum of $1,819 25, were supplied by the claimant, and as those articles formed no part of the regular equipment of the transports, and were not returned nor accounted for to the claimant, he is entitled, in the opinion of the committee, to be reimbursed therefor. Every portion of this claim, except the three items of steam-pump, chains, and sails, is without equity; and, in the opinion of the committee, deserves no further consideration by Congress.

It is therefore recommended that relief be granted to the extent of $1,819 25, and no more.

VI. THE STEAMERS FOSTER, RENO, BURNSIDE, AND PARKE.

The above steamers were sold to the Government, for a certain price, after being inspected and approved by the proper Government officers; which price was duly paid.

The claim now presented is for the amount of $58,210 77 for the expenses of labor, new boilers, machinery, and alterations, made by order of Major General Butler upon said steamers, after they were so inspected and accepted.

The items of the claim are thus stated:

For furnishing each of the four steamers with a hog-frame at a cost of $2,450 each	$9,800 00
For the Foster, in repairing the damages sustained by running upon a sunken stump	2,304 55
Paid Hayen & Co., Baltimore, cash for new copper sheathing	1,381 32
Three new boilers for the Foster	6,200 00
Two new air-pumps	780 00
Two new evaporators	825 00
One new blower, (Dimpfel patent,) set up	380 00
New pipes, valves, and connections	400 00
One new blowing engine, set up	500 00
New breaching for boilers	360 00
Pipes and dampers for blowers	180 00
	23,710 77

Burnside boilers	$8,250 00
Blower and engine	880 00
Sheet-iron work	540 00
Felting	130 00
Setting up boilers, removing decks, new combings, &c	1,300 00
Pipes and fittings	400 00
	11,500 00
The Reno same as the Burnside	11,500 00
The Parke same as the Burnside	11,500 00
Foster	23,710 77
Total	58,210 77

The documents furnished by the Quartermaster General's office clearly sustain the allegation that the items thus stated are entirely outside the requirements of the agreement of purchase; and the testimony tends to show that the alterations and additions were made under the direction of

Major Van Vliet, quartermaster, Mr. Haswell, engineer, and General Graham, at New York, and of Major General Butler at Norfolk.

It does not appear, however, that this work had the formal approval of the Bureau at Washington, and it is alleged that the lack of such approval has heretofore stood in the way of an adjustment of this claim at the War Department.

That a large expenditure was made upon these steamers after they were accepted by the Government; that it was made by Mr. Wiard, under the direction of Government officers; and that it must have been made with the full knowledge of the Bureau, seems not to admit of a doubt.

And, inasmuch as the alterations were ordered by an officer in the field high in command, for whose use the steamers were intended, and inasmuch as the Government received the benefit of the expenditure, there seems to be no good reason why it should not pay whatever may have been proved to have been so expended.

The whole amount claimed is, however, not satisfactorily proved.

There is no sufficient proof of the second and third items, amounting to $3,685 87. Nor is it clearly shown that there should be an allowance for the value of the boilers furnished, as charged, for the Burnside, Reno and Parke.

It is left in doubt by the testimony whether the original boilers were merely altered and reset in a different position, or whether, if supplanted by new ones, they were not in a condition for further service; and, therefore, of considerable value to the claimant.

Under this state of the evidence it does not seem proper to allow the price of these boilers, amounting to $24,750. The other items appear satisfactorily proved.

Making the above deduction, the result is this:

Whole claim		$58,210 77
Deduct—		
Second and third items	$3,685 87	
Three sets boilers	24,750 00	
		28,435 87
		29,774 90

Leaving $29,774 90 as the sum due for said expenditure.

SUMMARY.

I. Amount allowed under the 50-pounder gun contract	$31,828 50
II. Amount allowed under the 7½-inch gun contract	23,000 00
III. Amount allowed under the 15-inch gun contract	27,520 00
IV. Amount allowed under the Fremont-battery contract	
V. Amount allowed on account of steamers Augusta and Savannah	1,819 25
VI. Amount allowed on account of steamers Foster, Burnside, Reno, and Parke	29,774 90
Total	113,942 65

In view of the premises and considerations set forth, the committee report back the bill providing for the appropriation of $113,942 65 in full payment for all work and labor done, materials furnished and supplied to, and for all damages and losses sustained by breaches of contracts with, and on the part of, the United States, during the war and hitherto, and recommend its passage by the House.

A.

Contract between Secretary Welles and Norman Wiard in relation to 15-*inch guns.*

This contract, made and entered into this 10th day of April, 1863, between the Honorable Gideon Welles, Secretary of the Navy, acting for and in behalf of the United States of America, of the first part, and Norman Wiard, of the city and State of New York, as principal, of the second part, witnesseth: That, for and in consideration of the stipulations hereinafter mentioned, the said party of the second part agrees:

1. To cast, finish, and prepare for proof, and furnish a suitable place and means for mounting and proving, a trial smooth-bore gun of 15-inch caliber, modeled upon the plan heretofore presented, to weigh 43,000 pounds, to be in length of the dimensions of the Navy 15-inch guns mounted in the turret vessels.

2. The finished castings shall be free of all defects or cavities on the exterior or interior for which the naval service guns would be rejected; the bore shall be within the regulation limits, and the preponderance as established by the regulations of the Navy Department.

3. During the fabrication, (of the time of the commencement of which the Navy Department shall be informed,) the officer who may be appointed to examine and superintend, on the part of the Government, the progress of the work, shall be afforded all necessary facilities to ascertain all the details of molding, casting, qualities and kinds of iron and fuel used, arrangement of the pit and flasks, and everything bearing on the peculiarities of this method of casting guns.

4. When the gun is completed, and reported ready for proof by said party of the second part, one-half the value of said gun completed, at 25 cents per pound, shall be paid, or caused to be paid, by the said party of the first part; and as soon thereafter as may be convenient it shall be subjected to the following proof: one charge of 80 pounds of No. 7 quickest-burning powder, (Hazard's or Dupont's,) and two solid shot, with the usual windage, to be cast in pairs in this form,* and to weigh together 900 pounds, and to have flattened ends, that they may not crush in the gun. Then 20 charges of 60 pounds of the same powder and one shell ef 330 pounds weight to each charge, to be fired with the greatest possible rapidity.

5. If the gun stands the proof without other injuries than those allowed by regulation, it is to be immediately accepted by the Navy Department, and paid for at the rate of 25 cents per pound, less the amount which may have been advanced under the provisions of article 4; and the said party of the first part agrees to forthwith give the said party of the second part an order for 20 guns, formed upon the same plan, of such calibers as may be required by the exigencies of the naval service, of not less than 10 inches caliber, made of the same iron, in the same manner as the trial gun, but not more than two calibers shall be required; which guns said party of the second part agrees to furnish at 16 cents per pound.

The guns shall be finished in a workmanlike manner; the variations in dimensions of the finished guns shall not exceed those allowed in service guns, and they are to be subjected to the same proof as guns of like caliber in the naval service.

6. If the first or trial gun should fail to stand this test from any defect of fabrication, the said party of the second part shall be permitted to cast a second trial gun, subject to the same conditions and tests as the first gun, which, if it proves successful, shall be taken as the trial and model gun. In the manufacture of this gun the fragments of the first one may be used by the said party of the second part. If the second trial gun should also fail, this contract is to be void and of no effect, and the rejected gun or guns and their fragments shall become the property of the Government.

7. The first gun shall be ready for trial within two months of the date hereof, and should this gun fail, the second trial gun shall be ready within one month after the date of the failure of the first one.

8. The date of the delivery of the 20 guns provided for in article 5, should they be ordered, will be determined by an agreement to be made between the contracting parties. The conditions of payment for the 20 guns aforesaid to be those usual in contracts made by the Navy Department for ordnance, viz: "No other charge to be admitted nor allowances to be made by the United States for or on account of this contract, and *twenty* per centum to be withheld from the amount of all payments due on account thereof as collateral security, and not in any event to be paid except by special authority of the Secretary of the Navy until it is in all respects complied with by the parties, and *eighty* per centum of the amount of all deliveries will be paid by the Navy Department within 30 days after bills duly authenticated shall have been presented to him.

And the said party of the second part does further engage and contract that no member of Congress, officer of the Navy, or other person holding any office or appoint-

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* See drawing, printed evidence, page 10.

ment under the Navy Department, shall be admitted to any share or part of this contract or agreement, or to any benefit to arise thereupon.

And it is hereby expressly provided, and this contract is upon this express condition, that if any such member of Congress, officer of the Navy, or other person above named, shall be admitted to any share or part of this contract, or to any benefit to arise under it, or in case the party of the second part shall in any respect fail to perform this contract on his part, the same may be, at the option of the United States, declared null and void, without affecting their right to recover for defaults which may have occurred.

It is further stipulated and agreed that if default shall be made by the party of the second part in delivering all or any of the 20 guns, if they should be ordered, at the times and places which may be provided, that then and in that case the said party will forfeit and pay to the United States, as liquidated damages, a sum of money equal to twice the amount of the contract price herein agreed upon as the price to be paid in case of the actual delivery thereof; which liquidated damages may be recovered from time to time as they accrue.

In testimony whereof the parties of the first and second parts have hereunto set their hands and affixed their seals, at the city of Washington, the 10th day of April, 1863.

NORMAN WIARD.
GIDEON WELLES.

Further, in reference to section 8, above, it is hereby agreed and determined by the contracting parties that the dates of the delivery of the 20 guns provided for in article 5, should they be ordered, shall be as follows:

One gun per week after the success of the trial gun or guns.

NORMAN WIARD.
GIDEON WELLES.

41ST CONGRESS, 3d Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 44.

LOGAN H. ROOTS.

FEBRUARY 28, 1871.—Ordered to be printed.

Mr. A. COBB, from the Committee of Claims, made the following

REPORT.

[To accompany bill H. R. No. 3071.]

The Committee of Claims, to whom was referred the memorial of Logan H. Roots, having considered the same, report:

That claimant was collector of internal revenue for the first district of Arkansas, from July 1, 1867, to June 24, 1868, previous to which the polity and civil service of the country in that State had fallen into an embarrassed and demoralized condition.

This unsettled condition rendered it difficult to procure responsible and efficient deputy collectors; yet the claimant succeeded in administering his duties with such zeal as to be greatly to the advantage of the revenue department.

The total assessments against his district for the period amounted to $569,827 03, all of which was finally collected, paid over, and accounted for according to law, excepting $3,281 21.

This deficit was the result of the defalcation of one Hugh McMurray, a deputy collector, of whom an apparently sufficient bond and security were taken, and which bond being prosecuted in the law courts has been avoided by some of the defendants on the plea of *non est factum*, and become unavailable by the bankruptcy of others.

In this result it does not appear that there was fault or negligence on the part of the claimant. He seems to have done all that he could, first and last, to protect the Government. Every legal method has been exhausted to secure the amount due from the deputy and his sureties without avail. The deficit remains, an amount still beyond the means of the claimant, and his memorial appeals to Congress for equitable relief.

The committee, considering the relations of the claimant to the House, have viewed this claim narrowly; but after a thorough examination have concluded that the peculiar circumstances of the case warrant them in recommending to the House that the relief prayed for be granted; and for that purpose report the accompanying bill.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 45.

NATIONAL ASYLUM.

MARCH 2, 1871.—Ordered to be printed and recommitted to the Committee on Military Affairs.

Mr. NEGLEY, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, who were directed by resolution of the House of June 5, 1870, to investigate the management of the National Asylum for disabled volunteer soldiers, respectfully submit the following report:

The committee have examined the acts incorporating the asylum and providing for its support, have ascertained the amount of money received and expended, have made careful inquiry into the method of keeping accounts and vouchers and of making disbursements, and have, by a sub-committee, visited three of the four branches of the asylum, to satisfy themselves by personal observation of the fidelity and efficiency of the management of these institutions.

The first act of Congress incorporating the asylum was passed in 1865, and provided for a board of one hundred managers, a majority of whom was necessary to constitute a quorum for the transaction of business. Several attempts were made to get a quorum to attend a meeting, but without success, and no organization was effected until after the passage of an amendatory act approved March 21, 1866, which provided that "the board of managers shall be composed of the President, and Secretary of War, and Chief Justice of the United States, *ex officio*, during their terms of office, together with nine other citizens of the United States, not members of Congress, no two of whom shall be residents of the same State, but who shall all be residents of States which furnished organized bodies of soldiers to aid in the late war for the suppression of the rebellion, (no person being ever eligible who gave aid or countenance to the rebellion,) to be selected by joint resolution of the Senate and House of Representatives."

The members of the board hold their office for six years. The terms of office of two members expire every year, and their places are filled by joint resolution of the two Houses. The object of the asylum, as specified in the law, is for the care and relief of the disabled volunteer soldiers of the United States Army. The following gentlemen were first chosen members of the board of managers: Richard J. Oglesby, of Illinois; Benjamin F. Butler, of Massachusetts; Frederick Smyth, of New Hampshire; Lewis B. Gunckel, of Ohio; Jay Cooke, of Pennsylvania; P. Joseph Osterhaus, of Missouri; John H. Martindale, of New York; Horatio G. Stebbins, of California; and George H. Walker, of Wisconsin. The board is at present constituted as follows: The President of the United States, the Chief Justice, the Secretary of War, *ex officio;*

Major General B. F. Butler, president, Lowell, Massachusetts; Major General J. H. Martindale, senior vice-president, Rochester, New York; Jay Cooke, esq., junior vice-president, Philadelphia, Pennsylvania; Hon. Lewis B. Gunkel, secretary, Dayton, Ohio; General Thomas Osborn, Chicago, Illinois; Governor Frederick Smyth, Manchester, New Hampshire; Dr. Erastus B. Wolcott, Milwaukee, Wisconsin; Major General John S. Cavender, St. Louis, Missouri; Hon. Hugh L. Bond, Baltimore, Maryland.

By the laws of Congress there is appropriated for the support of the National Asylum as follows:

> All stoppages or fines adjudged against such officers and soldiers by sentence of court-martial or military commission over and above the amounts necessary for the reimbursement of the Government or of individuals; all forfeitures on account of desertion from the service; and all moneys due such deceased officers and soldiers which now are, or may be, unclaimed for three years after the death of such officers and soldiers, to be repaid upon the demand of the heirs or legal representatives of such deceased officers or soldiers. And the said board of managers are hereby authorized to receive all donations of money or property made by any person or persons for the benefit of the asylum, and to hold or dispose of the same for its sole and exclusive use.

It is evident that the amount of this fund can never be finally fixed until all the soldiers' accounts during the war of the rebellion have been settled through the Second Auditor's office. On the first of each month, therefore, an account is made up of the amount of such fines, stoppages, and other moneys as is provided by this section at the Second Auditor's office; and upon the account being stated and approved by the Comptroller, a requisition is made by the War Department, and a warrant is issued at the Treasury payable to the National Asylum, the check of which is delivered to the treasurer of the same. At each quarterly meeting of the board of managers, estimates having been previously made by the governors of the several asylums of the amounts needed for the use of their branches for the ensuing three months, are examined by the board and passed upon, and a resolution of appropriation is carried, each of which has been submitted to Congress in the several annual reports. The treasurer of the board of managers is then expected to pay out the moneys received from time to time, as required according to these resolutions of appropriation.

If, as has been sometimes the case, (*vide* the certificate of the Treasurer of the United States annexed to this report, Appendix A,) larger amounts come into the hands of the treasurer of the board than necessary for current expenses, such excess is at once invested in United States bonds. When such investment is made the bonds thus purchased cannot be sold or the investment disbursed without a direct resolution of the board of managers. All amounts so invested will appear in the certificate hereto annexed. By a standing resolution of the board no investment is allowed to be made in any other species of security than that of United States bonds.

Committees of the said board are appointed each year to audit the accounts of the several branches of the asylum, and also the accounts of the treasurer of the board, and to investigate whether they are properly vouched for, and to report to the board of managers, all of which is reported to Congress.

Before such a committee, at their examination of the central branch of the institution, at Dayton, Ohio, the treasurer of the board exhibited his account, Appendix B, and a certified statement, Appendix C, from the United States Treasury, which is hereto appended, with a letter, Appendix D, from the United States Treasurer, General F. E. Spinner. This account contained all amounts which the treasurer of the board ever

had received, as well as his vouchers for expenditures as they were made from time to time, according to the authorization of the board, all of which were found by the committee correct, and by request of the treasurer of the board the committee appended to his report, in book form, the annexed certificate, Appendix E:

MILWAUKEE, WISCONSIN, *October* 28, 1870.

The account contained in the foregoing pages, from 2 to 19 inclusive, (printed report, Appendix E,) were examined by us, members of the Military Committee of the House of Representatives, charged by resolution with the investigation, and the items of the credit side of the account were compared with a certificate from F. E. Spinner, Treasurer of the United States, of all the moneys which stood charged on the books of the treasurer of the National Asylum, and found to be correct. The debtor side of the account was found to be properly vouched in each item.

JAS. S. NEGLEY,
Chairman of Committee.
JASPER PACKARD

The footings of this account are as follows:

Cash received by the treasurer.....	$4,503,410 00
Cash paid by the treasurer.....	4,407,462 04
	95,947 96

In explanation of this very considerable sum found to be in the said treasurer's hands, he explained that the board of managers were about completing the purchase of the home at Hampton, for which the money had been appropriated, as well as for the refitting of the same, which combined accounted for $75,000 of that amount, and the committee are informed that this sum has since been paid out.

A discrepancy will be observed between the balance of the footings of the treasurer of the board and the amounts which have been received by him from the United States Treasury. This comes from the fact that the said treasurer accounted for large amounts received by him from private donations, summing up to the exact difference.

It appears that there now stands invested to the credit of the asylum, in bonds of the United States, the sum of $1,415,000. What the sum accumulating from forfeitures by desertion and other sources will be, and what will remain for the use of the asylum, is impossible to say; but it is believed that the amount will be sufficient to support the asylum in the future, after the purchase of lands, buildings, and construction shall have been completed.

Attention is called to the analysis of the treasurer's account, the investment account, and the quarterly appropriations of the board of managers, by which the quarterly balance in the hands of the treasurer of the board will appear, if there is such. But sometimes, owing to delays in adjusting accounts in the Second Auditor's office or to the neglect to pass the accounts and requisitions through the United States Treasury, the treasurer of the board has been called upon to advance very considerable sums for the current expenses and construction, which in every case has been done without any charge of interest. At the same time the said treasurer has not credited the institution with interest on the balances of appropriations from quarter to quarter remaining in his hands, on the grounds that they were moneys at call, and had to be sent to widely diverse parts of the country to be expended, viz: Augusta, Maine; Milwaukee, Wisconsin; Dayton, Ohio; and Hampton, Virginia. All this transmittal of these very large amounts has been made without cost or loss to the institution.

The treasurer of the board states that, being a bonded officer in the sum of $100,000, and being obliged to transmit large sums to be used in many different places; also because, after the first three quarters of 1867, the exact amounts of the appropriations could not be obtained from the United States Treasury except partially from month to month, and irregularly, in sums varying greatly in amount, he has charged himself, for convenience sake, with the amount appropriated at each meeting of the board of managers, depositing the money received with his private account, and paying out the same on his own drafts, irrespective of the fact whether the money appropriated was actually received by him from the United States Treasury or not; so that at several times, as appears by the accounts, the asylum has been indebted to the treasurer of the board in very considerable sums. As an example of one of these instances, on the 1st day of January last the said treasurer appears by the accounts to have advanced to the asylum the sum of $111,232 11.

The general conclusion of the committee with regard to the financial management of the asylum is that the funds of the institution have been judiciously expended, and that as great economy has been practiced as was consistent with a proper regard for the comfort and happiness of the men for whose benefit the asylum was established. Liberal expenditures have been made to provide chapels, libraries, reading-rooms, amusement-halls, and other facilities for recreation and for intellectual and moral culture, as well as to furnish good quarters, food, clothing, and hospital attendance, but the committee regard such expenditures as wisely made, in view of the fact that the constant and proper aim of the management is to prove to the disabled soldiers that the asylums were in no sense almshouses, furnishing them with the bare necessaries of life, but homes which they have earned for themselves by their sufferings and sacrifices.

The members of the board have taken a constant and active interest in the asylum; they receive no pay for their services, the law allowing them only their actual expenses. Their action is therefore separated from any interested personal motives. The committee believe that the board have acted under a sense of the responsibility conferred upon them, and have administered their trust with a proper appreciation of its magnitude and character.

The following statement, prepared by the secretary of the board of managers, gives a full account of the operations of the asylum for the year ending December 1, 1870:

Whole number of disabled soldiers and sailors supported or cared for by the board of managers during the year:

At Central Asylum, near Dayton, Ohio	2,101	
At Eastern Branch, near Augusta, Maine	719	
At Northwestern Branch, near Milwaukee, Wisconsin	798	
At Philadelphia Soldiers' Home, Philadelphia, Pennsylvania	451	
Out-door relief	125	
		4,194
Whole number supported or aided during the year ending November 1, 1869	3,802	
Increase over last year	392	

HOW DISABLED.

Of these so aided, so far as reported, 8 lost both arms. 5 both legs, 2 each an arm and a leg, 309 each one arm, 388 each one leg, and 1,245 were disabled by other wounds received in the service; 113 were blind, the most of them totally, and 48 insane, made so, in most cases, by the cruelties to which they were subjected in rebel prisons. The remainder were disabled by sickness contracted in the service, as shown by the

NUMBER TREATED IN HOSPITAL,

which, during the year, was 1,667, and for the diseases following: consumption, 217; rheumatism, (acute and chronic,) 182; diarrhea and dysentery, 126; paralysis, 71; ulcers and old gun-shot wounds, 165; chronic bronchitis, 57; asthma, 24; epilepsy, 16; ophthalmia and other diseases of the eye, 28; diseases of the heart, 35; diseases of the ear, 13; dyspepsia, &c., 33; miasmatic diseases, 67; hernia, 27; chronic inflammation of the liver, 13; diseases of the urinary and genital organs, 83; diseases of the bones and joints, 22; other chronic diseases, 156; other acute diseases, 161; &c., &c.

AGES, NATIVITY, DOMESTIC RELATIONS, ETC.

Of these, cared for at the regular asylums, 59 were under the age of 20; 1,502 between the ages of 20 and 30; 1,651 between the ages of 30 and 50; and 406 over the age of 50. Of the whole, 1,065 were married, with wives or minor children still living, and 2,553 unmarried; 1,455 were native born, and 2,163 of foreign birth; 151 belonged to the Regular Army, 37 to the Navy, and 3,413 to the volunteer service.

PENSIONS AND PENSIONERS.

Of the 3,618 supported at the regular asylums, only 893 received pensions, but they received during the year the sum of $125,489 94. Out of this they pay for their clothing, at the cost price of the same to the asylum, and transportation at half the usual rates when they choose to visit their families and friends. Out of the remainder, and other moneys received from the asylum, many disabled soldiers support their families at home, while others leave their moneys in trust and at interest with the treasurer until a sufficient sum is accumulated to enable them to go into business and earn a living for themselves.

EMPLOYMENT AND COMPENSATION.

Under the order of the board, all the service and labor required in and about the asylum (with a few rare exceptions) is now performed by disabled soldiers, for which, as a rule, they receive compensation ranging from $5 to $25 per month. During the year there were so employed, at Central Asylum, 366 inmates, who received $32,617 19; Eastern Branch, 200 inmates, who received $22,723 29; Northwestern Braneh, 97 inmates, who received $11,195 01; being a total of 663 disabled soldiers so employed during the year, who received from the asylum the sum of $66,535 49.

WORKSHOPS

have been established at each asylum, and are now in successful operation. The trades carried on are shoe-making, cigar-making, plumbing, gas-fitting, printing, book-binding, cabinet-making, wagon-making, blacksmithing, harness-making, basket and broom-making, painting, tinning, and knitting with machines. At Central Asylum 109 inmates were so employed, and their labor produced the sum of $30,672 67, and after deducting cost of raw material, the sum of $20,758 82 was left as profit of same. At the Eastern Branch a shoe manufactory, with the most improved machinery, is now in successful operation. During the five months that it has been carried on 14,940 pairs of shoes have been made, for which there has been paid to inmates as their share of the labor the sum of $2,008 85.

FARMS AND GARDENS

are cultivated at each asylum by the labor of disabled soldiers, and there was realized from these sources, during the year, the following sums:

At Central, the sum of	$9,728 70
At Eastern, the sum of	9,148 60
At Northwestern, the sum of	10,420 08
Making a total of	29,297 38

realized by the asylum from these sources during the year.

LIBRARIES AND READING-ROOMS

have become an interesting and important feature at each asylum. The larger part of the books have been donated by kind friends, and the remainder purchased from the profits realized in the asylum stores. The libraries are now as follows: Central, 3,264 volumes; number of books taken out and read during year, 13,853; Eastern, 2,138 volumes; number of books taken out and read during year, 5,725; Northwestern, 1,500 volumes; number of books taken out and read during year, 4,990; making total

number of volumes 6,902, and total number of books taken out and read during the year, 24,568.

The reading rooms are regularly supplied (and almost entirely by donation from the publishers) with the following newspapers and periodicals: Central, 30 dailies, 226 weeklies, and 80 periodicals; Eastern, 29 dailies, 149 weeklies, and 22 periodicals; Northwestern, 10 dailies, 48 weeklies, and 11 periodicals. These rooms are crowded day and night, and the English, German, and French newspapers and periodicals read with the greatest possible interest.

SCHOOLS

have been established at each asylum, and are doing much good in preparing disabled soldiers to go back into the world, and as school-teachers, book-keepers, clerks, telegraph operators, &c., to earn their own living. The branches taught have been reading, writing, arithmetic, geography, English grammar, algebra, history, Latin, telegraphy, book-keeping, and music. The attendance during the year has been as follows:

Central, 272 scholars; Eastern, 50 scholars; Northwestern, 76 scholars; total, 398.

AMUSEMENTS.

Believing play as necessary as work, and both conducive to the health and happiness of the men, the managers have made liberal provision for amusements at each of the asylums. Large assembly rooms for lectures, concerts, dramatic entertainments, &c., have been provided at each asylum, and the reports show that they are very frequently occupied and always crowded. Brass bands, string bands, glee clubs, dramatic clubs, debating clubs, &c., formed among the inmates, give frequent entertainments, while the asylums are also frequently visited by amateur musical clubs from the neighboring cities, and by traveling lecturers and concert troupes. Besides, at each asylum there are amusement halls, where there are ten-pin alleys, billiard and bagatelle tables, and other means for in-door amusements.

RELIGION AND MORALS.

At the Central asylum a fine stone church edifice has just been completed. Comfortable and pleasant chapels have been provided at the two other asylums. Religious services are held by the chaplain every Sabbath morning and evening, and seem to be generally well attended. The regular attendance at the Central is reported at 400, and is on the increase. Special services are held in the hospitals every Sunday afternoon. English and German Catholic priests also visit the asylums and hold regular services. Besides, there are Bible-classes, Sunday-schools, prayer-meetings, Christian associations, &c.; also, lodges of the Good Templars and other temperance organizations, some of them with a membership of over 200. Through these and the other influences above named, a wonderful change in the morals and conduct of the men has been accomplished. One of the reports says, "These things have had a most happy and benificent influence on our men. They are now orderly and well behaved, and seem contented and happy. Discipline is now so easy that peremptory measures are seldom necessary to its enforcement."

COST OF RATION.

The average cost of the ration per day for the year has been as follows:

Central: Barrack ration, $23\frac{4}{5}$ cents per day; hospital ration, $29\frac{1}{3}$ cents per day; general average, $25\frac{7}{19}$ cents per day. Eastern: general average, $27\frac{1}{2}$ cents per day. Northwestern: general average, 23 cents per day. Average at the three asylums, $25\frac{11}{38}$ cents per day.

To show what this ration affords to the men, the prescribed bill of fare of the Northwestern branch (the others are equally good) and the special diet list of the Central Asylum Hospital are appended, the others being substantially the same; these two being a fair average of them all.

THE TOTAL COST PER ANNUM OF KEEPING EACH MAN

may be gotten by dividing the total amount of the current expenses of each asylum per annum by the average attendance thereat. The running expenses include food, clothing, fuel, light, medicines, transportation, officers' salaries, inmate pay-rolls, &c., being every expenditure during the year, except such as may have been made in the construction or repair of buildings. This shows the expenses per man at Central, $160 79 per annum; at Eastern, $208 42 per annum; at Northwestern, $182 92 per annum; average, $184 04 per annum, less, it is believed, than in any similar institution in the United States.

FROM WHAT STATES THEY COME.

So far as reported, the disabled soldiers so supported in the several asylums, come from the several States, as follows: Maine, 72; New Hampshire, 51; Vermont, 44; Massachusetts, 136; Connecticut, 44; Rhode Island, 53; New York, 837; Pennsylvania,

729; New Jersey, 96; Delaware, 44; Maryland, 40; District of Columbia, 34; Ohio, 559; Indiana, 317; Illinois, 269; Wisconsin, 63; Michigan, 148; Iowa, 33; Minnesota, 30; Missouri, 43; Kansas, 36; California, 5; West Virginia, 8; Kentucky, 20; Louisiana, 5; Texas 6, and Tennessee, 13.

DEATHS, DISCHARGES, ETC.

Of the whole number aided during the year 142 died—14 while absent on furlough, and 80, being more than one-half of the whole, of consumption; 891, having recovered health, or been prepared in schools, workshops, or otherwise, to support themselves, were honorably discharged; and 68, for repeated violations of the rules, have been dishonorably discharged.

During the past two years there were three branches of the National Asylum in operation. The Central branch, at Dayton, Ohio, the Northwestern branch, at Milwaukee, Wisconsin, and the Eastern branch, near Augusta, Maine; and within the past few months a fourth one, called the Southern branch, has been opened near Hampton, Virginia, designed for colored soldiers, and consumptives, who require a mild climate.

Members of the committee have visited the three first-named branches, and have made careful examinations of the grounds and buildings, as well as proper inquiries into the management, discipline, and general treatment, and the method of keeping accounts and making expenditures at these branches.

The report of the secretary of the board, exhibited in the foregoing pages, as well as those of the acting governors (annexed in Appendix G, H, and I) of the several branches of the asylum, give all desirable information as to the amounts paid for land of sites, cost of buildings, and other improvements, and the expense of maintenance classified. The committee find no evidence that the price paid for the sites of the several branches was in any case unreasonable, nor that proper economy has not been exercised in the erection of buildings and the improvement of the premises. The cost of the buildings of the asylums is believed to be less than that of any Government buildings of like size and character, and important savings have been introduced in the expenditure of maintenance, by the employment of the inmates of the asylum for light labor, at a compensation reasonable and advantageous to both parties.

The committee have taken the testimony of several witnesses, (Appendix F,) which is appended to this report, and, from their manifest readiness to testify, it must be inferred that there were no facts of any importance, in connection with the management of the asylum, withheld or concealed by them.

The committee are convinced by the investigation they have made, that the funds of the National Asylum for Disabled Volunteer Soldiers have been faithfully applied by the board of managers, for the purposes intended by the act incorporating the institution, and that the general management of the several branches of the asylum established by the board has been, as far as they have been able to learn, efficient and economical. The committee have also come to the conclusion that the treasurer having accounted for all funds of the asylum which ever came into his hands, by correct entries and proper vouchers, is entirely to be exonerated from any charge or suspicion of misappropriation, neglect, or any other misconduct in the discharge of his duties; and, therefore, having no legislation to recommend to the House upon the subject, they ask that they may be discharged from the further consideration of the same.

APPENDIX A.

Amount of United States bonds registered in name of National Asylum for Disabled Volunteer Soldiers, and of Hon. B. F. Butler, president and treasurer, and the interest declared and paid thereon.

Date of issue.	Description of bonds and amounts.		
	1867's.	10-40's.	Pacifics.
July 23, 1867	$504,750	.....	.....
May 11, 1868	161,500	.....	.....
May 26, 1870	70,000	.....	$300,000
May 27, 1870	.....	$170,000	.....
May 28, 1870	.....	30,000	.....
May 31, 1870	230,000	.....	.....
Total	966,250	200,000	300,000
March 9, 1870	50,000	.....	.....
Leaving, now held	916,250	200,000	300,000

H. JENISON,
Chief Loan Division.

Amount of United States bonds registered in name of the National Asylum for Disabled Volunteer Soldiers and of Hon. B. F. Butler, president, &c.—Continued.

Interest due.	Amounts held at dates when interest became due.			Interest.		When paid.
	Description of bonds.					
	1867's.	10-40's.	Pacifics.	Coin.	Currency.	
Jan. 1, 1868..	$504,750	.....	.....	$15,142 50	.....	January 2, 1868.
July 1, 1868..	666,250	.....	.....	19,987 50	.....	July 1, 1868.
Jan. 1, 1869..	666,250	.....	.....	19,987 50	.....	January 2, 1869.
July 1, 1869..	666,250	.....	.....	19,849 51	.....	May 20, 1869, rebate, $137 99.
Jan. 1, 1870..	666,250	.....	.....	19,708 23	.....	October 8, 1869, rebate, $279 27.
July 1, 1870..	916,250	.....	$300,000	27,487 50	$9,000	July 2, 1870.
Sept. 1, 1870..	.....	$200,000	.....	5,000 00	.....	Not yet drawn.
Total....	.....	.....	.....	127,162 74	9,000	

APPENDIX B.

DR. *Military Asylums in account with Major General Benjamin F. Butler, acting treasurer.* CR.

Date.	Expenditures.	Amount.	Amount in bonds.	Date.	Receipts.	Amount.	Amount in bonds.	Appropriations.
Aug.—, 1866	To cash paid, as per vouchers.	$5,000 00	.....	May —, 1866	The board of managers appropriated for construction and current expenses, as per estimate.	.....	.....	$10,000 00
Aug.—, 1866	To cash paid, as per Abstract A, for year.	909 83	.....					
Sept.—, 1866	.....do	1,700 00	.....	July —, 1866	The board of managers appropriated for relief of disabled soldiers, through State institutions.	.....	.....	45,000 00
Sept.—, 1866	To cash paid, as per vouchers.	500 00	.....					
Oct. —, 1866	.....do	5,000 00	.....					
Oct. —, 1866	To cash paid, as per Abstract A, for year.	750 00	.....	June —, 1866	By cash from Treasurer United States	$10,000 00	.....	.....
				Sept. —, 1866	By cash from Treasurer United States.....	45,000 00	.....	.....
Nov.—, 1866	.....do	279 64	.....					
Nov.—, 1866	To cash paid, as per vouchers.	4,800 00	.....					
	Total	18,939 47	.....					
	To balance in hands of acting treasurer.	36,060 53	.....					
	Total.....	55,000 00	.....		Total.....	55,000 00	.....	.....
Dec. —, 1866	To cash paid, as per vouchers.	17,052 90	.....		The board of managers appropriated for construction and current expenses for the quarter ending February 28, 1867.	.....	.....	220,000 00
Jan. —, 1867	.....do	1,068 53	.....					
Feb. —, 1867	.....do	15,657 77	.....					
	To cash paid, as per Abstract B, for year.	5,142 19	.....	Dec. —, 1866	By bonds and interest donated, Abstract A.	.....	$11,105 55	.....
				Dec. 1, 1866	By balance in hands of acting treasurer	36,060 50	.....	.....
				Feb. —, 1867	By cash from Treasurer United States.....	220,000 00	.....	.....
	Total	38,921 39	.....					
	To balance in hands of acting treasurer.	217,139 14	.....					
	Total.....	256,060 50	.....		Total.....	256,060 50	.....	.....
Mar.—, 1867	To cash paid, as per vouchers.	41,041 67	.....	Mar. —, 1867	By cash in hands of acting treasurer	217,139 14	.....	.....
Apr.—, 1867	.....do	11,137 50	.....					
May —, 1867	.....do	50,166 93	.....					
	To cash paid, as per Abstract B, for year.	4,685 12	.....					
	Total	107,031 22	.....					
	To balance in hands of acting treasurer.	110,107 92	.....					
	Total.....	217,139 14	.....		Total.....	217,139 14		

June—, 1867	To cash paid, as per vouchers.	500 00	.....	June 1, 1867	By cash in hands of acting treasurer.....	110, 107 92	.....	.....
July —, 1867	To cash paid for bonds and premium.	561, 744 11	561, 744 11	July —, 1867	By cash from Treasurer United States to buy bonds.	546, 389 87	546, 389 87	.....
Aug.—, 1867	To cash paid, as per vouchers.	52, 416 47	.....					
	Total	614, 660 58	.....					
	To balance in hands of acting treasurer.	41, 837 21	.....					
	Total.....	656, 497 79	.....		Total.....	656, 497, 79		
Sept.—, 1867	To cash paid, as per vouchers.	35, 000 00	.....	Sept. 7, 1867	The board of managers appropriated for construction and current expenses, as per estimate for the quarter ending December 31, 1867.	.....	.....	133, 000 00
Oct. —, 1867	.....do	15, 000 00	.....					
Nov.—, 1867	.....do	45, 625 00	.....					
	To cash paid, as per Abstract B, for the year.	4, 228 05	.....	Sept. 1, 1867	By balance in hands of acting treasurer....	41, 837 21	.....	.....
				Sept. —, 1867	By cash from Treasurer United States.....	133, 000 00	.....	.....
	Total	99, 853 05	.....					
	To balance in hands of acting treasurer.	74, 984 16	.....					
		174, 837 21	.....		Total.....	174, 837 21	.....	.....
Dec. —, 1867	To cash paid, as per vouchers.	134, 315 52	.....	Dec. 6 and 7, 1867.	The board of managers appropriated for construction and current expenses, as per estimate, for the quarter ending February 28, 1868.	.....	.....	234, 000 00
Jan. —, 1868	.....do	69, 862 74	.....					
Feb. —, 1868	.....do	30, 559 45	.....					
	To cash paid, as per Abstract B, for the year.	3, 403 46	.....	Dec. —, 1867	By cash in hands of acting treasurer.....	74, 984 16	.....	.....
				Dec. —, 1867	By cash donation, as per Mem. C	20, 177 37	.....	.....
	Total.....	238, 141 17	.....	Dec. —, 1867	By cash from Treasurer United States.....	62, 781 64	.....	.....
	To balance in hands of acting treasurer.	31, 656 27	.....	Jan. —, 1868	.....do.....	111, 854 27	.....	.....
	Total	269, 797 44	.....		Total.....	269, 797 44	.....	.....
Mar. —, 1868	To cash paid, as per vouchers.	41, 689 29	.....		The board of managers appropriated for construction and current expenses, as per estimate, for the quarter ending May 31, 1868.	.....	.....	206, 000 00
Apr. —, 1868	.....do	94, 727 00	.....					
May —, 1868	.....do	69, 880 25	.....					
May —, 1868	To cash paid for the purchase of bonds	176, 438, 75	176, 438 75	Mar. 1, 1868	By balance in hands of acting treasurer.....	31, 656 27	.....	.....
	To cash paid, as per Abstract C, for the year.	3, 400 00	.....	Apr. —, 1868	By cash from Treasurer United States.....	206, 000 00	.....	.....
				May —, 1868	By cash for the purchase of bonds	176, 410 89	176, 410 89	.....
	Total.....	386, 135 29	.....					
	To balance in hands of acting treasurer.	27, 931 87	.....					
	Total	414, 067 16	.....		Total.....	414, 067 16	.....	.....

DR. *Military Asylums in account with Major General Benjamin F. Butler, acting treasurer*—Continued. CR.

Date.	Expenditures.	Amount.	Amount in bonds.	Date.	Receipts.	Amount.	Amount in bonds.	Appropriations.
June —, 1868	To cash paid, as per vouchers.	$25,000 00	.....	June 14, 1868	The board of managers appropriated for construction and current expenses, as per estimate, for the quarter ending August 31, 1868.	.....	.....	$184,000 00
July —, 1868	.....do	102,867 41	.....					
Aug. —, 1868	.....do	11,747 67	.....					
	To cash paid, as per Abstract C, for the year.	3,384 14	.....	June 1, 1868	By amount in hands of acting treasurer.....	$27,931 87	.....	.....
				July —, 1868	By amount received for interest and premium on gold bonds.	28,025 64	.....	.....
	Total.....	142,999 22	.....					
	To balance in hands of acting treasurer.	146,875 87	.....	Aug. —, 1868	By cash received from Treasurer United States.	233,917 58	.....	.....
	Total	289,875 09	.....		Total.....	289,875 09	.....	.....
Sept. —, 1868	To cash paid, as per vouchers.	63,245 00	.....	Oct. 9, 1868	The board of managers appropriated for construction and current expenses, as per estimate, for the quarter ending November 30, 1868.	.....	.....	151,500 00
Oct. —, 1868	.....do	64,000 00	.....					
Nov. —, 1868	.....do	82,999 48	.....					
	To cash paid, as per Abstract D, for the year.	3,426 23	.....	Sept. —, 1868	By amount in hands of acting treasurer.....	146,875 87	.....	.....
				Sept. —, 1868	By amount received from Treasurer United States, (special appropriation.)	25,000 00	.....	.....
	Total.....	213,670 71	.....					
	To balance in hands of acting treasurer.	81,927 40	.....	Nov. —, 1868	By amount received from Treasurer United States.	123,722 24	.....	.....
	Total	295,598 11	.....		Total.....	295,598 11	.....	.....
Dec. —, 1868	To cash paid, as per vouchers.	109,121 21	.....	Dec. 11, 1868	The board of managers appropriated for construction and current expenses, as per estimate, for the quarter ending February, 1869.	.....	.....	252,600 00
Jan. —, 1869	.....do	119,819 88	.....					
Feb. —, 1869	.....do	66,943 47	.....					
	To cash paid, as per Abstract D, for the year.	4,010 41	.....	Dec. 1, 1868	By amount in hands of acting treasurer.....	81,927 40	.....	.....
				Dec. —, 1868	By interest and premium on gold bonds.....	26,883 18	.....	.....
	Total.....	299,894 97	.....	Jan. —, 1869	By cash received from Treasurer United States.	163,620 02	.....	.....
	To balance in hands of acting treasurer.	61,626 49	.....					
				Feb. —, 1869	.....do.....	89,090 86	.....	.....
	Total	361,521 46	.....		Total.....	361,521 46	.....	.....
Mar. —, 1869	To cash paid as per vouchers.	159,652 30	.....	Mar. 5, 1869	Board of managers appropriated for construction and current expenses, as per estimate for the quarter ending May 31, 1869.	.....	.....	166,500 00
Apr. —, 1869	.....do	93,625 80	.....					
May —, 1869	.....do	41,642 15	.....					
	To cash, as per Abstract D, for the year.	3,119 27	.....	Mar. 1, 1869	By amount in hands of acting treasurer.....	61,626 49	.....	.....
				Mar. —, 1869	By donations as per Mem. E.....	126,520 63	.....	.....
	Total	298,039 52	.....	Mar. —, 1869	By cash from Treasurer United States	40,389 91	.....	.....
	Balance in hands of acting treasurer.	97,256 92	.....	Mar. —, 1869	By cash received for interest and premium on gold bonds.	27,789 31	.....	.....

				May —, 1869	By cash received from Treasurer United States.	138,970 10		
	Total	395,296 44			Total	395,296 44		
June—, 1869	To cash paid, as per vouchers	43,792 11		July 3, 1868	Board of managers appropriated for construction and current expenses, as per estimate for the quarter ending August 31, 1869.			329,100 00
July —, 1869	do	89,600 70						
Aug.—, 1869	do	57,450 00						
	To cash paid, as per Abstract D, for year.	3,300 09		June 1, 1869	By cash in hands of acting treasurer	97,256 92		
				June—, 1869	By cash from Treasurer United States	68,321 65		
	Total	194,142 90		July—, 1869	do	40,091 71		
	Balance in hands of acting treasurer.	56,173 94		Aug.—, 1869	do	44,646 56		
	Total	250,316 84			Total	250,316 84		
Sept.—, 1869	To cash paid, as per vouchers	62,300 00			Board of managers appropriated for construction and current expenses, as per estimate for the quarter ending November 30, 1869.			129,000 00
Oct. —, 1869	do	26,000 00						
Nov.—, 1869	do	59,000 00						
	To cash paid, as per Abstract D, for the year.	3,250 00		Sept. 1, 1869	By cash in hands of acting treasurer	56,173 94		
				Sept. 1, 1869	By cash from Treasurer United States	33,326 98		
	Total	150,550 00		Oct. —, 1869	do	5,244 09		
	To balance in hands of acting treasurer.	8,671 30		Oct. —, 1869	By cash from interest and premium on gold bonds.	25,645 37		
				Nov.—, 1869	By cash from Treasurer United States	23,150 49		
				Nov.—, 1869	By cash from sale of bonds, Mem. G	15,680 43	11,105 55	
	Total	159,221 30	738,182 86		Total	159,221 30	722,800 76	
Dec. 18, 1869	To cash paid, as per vouchers	26,600 00		Dec. 15, 1869	Board of managers appropriated for construction and current expenses, as per estimate for the quarter ending February 28, 1870.			138,500 00
	do	51,100 00						
	do	57,000 00						
	To cash paid, as per Abstract E, for the year.	1,502 32		Dec. 1, 1869	By amount in hands of acting treasurer	8,671 30		
	Deduct from bond account for sale of bonds.		56,728 54	Dec.—, 1869	By cash received from Treasurer United States.	48,230 21		
				Jan. —, 1870	By cash received from Treasurer United States.	14,386 72		
				Feb.—, 1870	By cash received from Treasurer United States.	4,625 44		
				Feb.—, 1870	By cash received from sale of bonds, Abst. D	56,325 00		
				Feb.—, 1870	By cash received from interest on same, Abstract D.	403 54		
					Deduct for sale of bonds, (bond account)		56,728 54	
					Total	132,642 21	666,072 22	
					Balance due acting treasurer	3,560 11		
	Total	136,202 32	681,454 32		Total	136,202 32		

DR. *Military Asylums in account with Major General Benjamin F. Butler, acting treasurer*—Continued. CR

Date.	Expenditures.	Amount.	Amount in bonds.	Date.	Receipts.	Amount.	Amount in bonds.	Appropriations.
Mar. 1, 1870	To balance due acting treasurer.	$3,560 11	.....	Mar. 17, 1870	Board of managers appropriated for construction and current expenses, as per estimate for the quarter ending May 31, 1870.	.....	.....	$176,630 00
Mar.—, 1870	To cash paid, as per vouchers	171,064 72	.....					
Apr.—, 1870	.....do	64,777 45	.....					
May —, 1870	.....do	112,358 00	.....	Mar.—, 1870	By cash from Treasurer United States.....	$268,102 34	.....	.....
May —, 1870	To cash paid for bonds.....	905,673 26	$905,673 26	Apr.—, 1870	.....do	177,075 24	.....	.....
	To cash paid, as per Abstract E, for the year.	1,287 14	.....	Apr.—, 1870	By cash from Treasurer United States to purchase bonds.	950,053 94	$950,053 94	.....
				May —, 1870	By cash from Treasurer United States.....	9,352 54	.....	.....
	Total	1,258,720 68	.....					
	To balance in hands of acting treasurer.	145,863 38	.....					
	Total	1,404,584 06	.....	.....	Total.....	1,404,584 06	.....	.....
June—, 1870	To cash paid, as per vouchers	10,629 59	.....	July 3, 1870	Board of managers appropriated for construction and current expenses, as per estimate for the quarter ending August 31, 1870.	.....	.....	251,400 00
July—, 1870	.....do	33,329 20	.....					
Aug.—, 1870	.....do	85,011 58	.....					
	To cash paid, as per Abstract E, for the year.	1,400 00	.....	June 1, 1870	By cash in hands of acting treasurer.....	145,863 38	.....	.....
				July —, 1870	By cash from Treasurer United States.....	11,886 73	.....	.....
	Total.....	130,370 37	.....	Aug.—, 1870	.....do.....	88,032 23	.....	.....
	To cash in hands of acting treasurer.	166,699 42	.....		.....do.....	46,947 91	.....	.....
					By cash from Nathan Cutter, Mem. F.....	4,339 54	.....	.....
	Total.....	297,069 79	.....	.....	Total.....	297,069 79	.....	.....
Sept.—, 1870	To cash paid, as per vouchers	65,410 00	.....	Oct. 9, 1870	Board of managers appropriated for construction and current expenses, as per estimate for the quarter ending November 30, 1870.	.....	.....	135,620 00
	.....do	55,942 80	.....					
	.....do	89,793 23	.....					
	To cash paid, as per Abstract E, for the year.	1,396 49	.....	Sept. 1, 1870	By balance in hands of acting treasurer.....	166,699 42	.....	.....
				Sept.—, 1870	By cash from Treasurer United States.....	11,188 59	.....	.....
				Oct. —, 1870	.....do	14,703 69	.....	.....
				Nov.—, 1870	.....do.....	15,816 17	.....	.....
					Total.....	208,407 87	.....	.....
					By balance due acting treasurer.....	4,134 65	.....	.....
	Total.....	212,542 52	.....		Total.....	212,542 52	.....	.....

Dec. —, 1870	To balance due acting treasurer.	4, 134 65	.....	Dec. 20, 1870	Board of managers appropriated for construction and current expenses, as per estimate for the quarter ending February 28, 1870.	.....	.....	155, 692 49
	To cash paid, as per vouchers.	101, 797 87	.....	Dec. —, 1870	By sale of $5,000 gold draft, from Treasurer United States.	5, 530 69	.....	.....
				Dec. —, 1870	By cash from Treasurer United States.....	14, 179 72	.....	.....
					Total.....	19, 710 41	.....	.....
				Dec. 31, 1870	By balance due acting treasurer.....	86, 222 11	.....	.....
	Total.....	105, 932 52	1, 587, 127 58		Total.....	105, 932 52	1, 616, 126 16	2, 918, 542 49

RECAPITULATION.

Amount appropriated by board of managers for expenses of asylum, and authorizing the acting treasurer to draw the same from the United States Treasurer....	$2, 918, 542 49
Amount drawn by the acting treasurer from the United States Treasurer for construction and current expenses, under the above authorization	2, 523, 186 32
Amount not drawn under the authority.....	395, 361 17

Dr.		Cr.	
To amount paid, expenses of asylum, as per account and vouchers	$2,995,197 02	By cash received from the Treasurer of the United States for expenses of asylums.	$2, 523, 186 32
To amount of money received from the Treasurer of the United States, to purchase bonds.	1,643,856 12	By cash from the Treasurer of the United States for the purchase of bonds.	1, 672, 854 70
		By cash and bonds received from different sources, as per Abstracts A, C, F, E, and G.	166, 717 97
		By cash received from the Treasurer of the United States, from special appropriation by Congress.	25, 000 00
		By cash received from sale of bonds, by order of board of managers.....	56, 728 54
		By cash received from interest and premium, in gold, on bonds.....	108, 343 50
		By balance due the acting treasurer.....	86, 222 11
Total.....	4,639,053 14	Total.....	4, 639 053 14

Amount of money in bonds in acting treasurer's hands..... $1, 616, 126 16

E. E.—The above abstracts are true transcripts of the accounts of the acting treasurer, up to December 31, 1870, as shown by the books and vouchers before the Military Committee of the House of Representatives.

BENJ. F. BUTLER,
President and Acting Treasurer National Asylum for Disabled Volunteer Soldiers.

APPENDIX C.

Amounts paid by drafts to Hon. B. F. Butler, president, &c.

Date.	No. of warrant.	No. of draft.	In favor of—	Amount.
June 6, 1866	8394	7194	Benjamin F. Butler	$10,000 00
September 18, 1866	9600	7584	do	45,000 00
January 29, 1867	293	5145	do	220,000 00
July 22, 1867	2982	6894	National Asylum for Disabled Volunteer Soldiers	546,389 87
September 11, 1867	3715	7363–64	do	133,000 00
December 12, 1867	5049	8791	do	62,781 64
January 10, 1868	52	8998	do	111,854 27
April 4, 1868	672	9531	do	206,000 00
May 9, 1868	863	9667	Benjamin F. Butler	176,410 89
July 10, 1868	1725	432	National Asylum for Disabled Volunteer Soldiers	148,778 13
July 21, 1868	1969	697	do	85,139 45
November 13, 1868	3746	2114	do	123,722 24
December 29, 1868	4493	2743	do	163,620 02
February 6, 1869	406	3125	do	89,090 86
March 19, 1869	919	3425	do	40,389 91
April 9, 1869	1267	3741	do	86,296 98
May 14, 1869	1924	4252	do	52,673 12
June 18, 1869	2392	4590	do	68,321 65
July 23, 1869	2911	4912	do	40,091 71
August 10, 1869	3160	5154	do	44,646 56
September 13, 1869	3527	5459	do	33,326 98
October 7, 1866	3867	5682	Benjamin F. Butler, president, &c	5,244 09
November 4, 1869	4236	5926	National Asylum for Disabled Volunteer Soldiers	23,150 49
December 4, 1869	4509	6150	do	26,511 96
December 23, 1869	4744	6319	do	21,718 25
January 15, 1870	70	6459	do	14,386 72
February 7, 1870	375	6643	do	4,625 44
March 7, 1870	687	6948	do	17,870 82
March 8, 1870	688	6947	do	250,231 52
March 26, 1870	962	7092	do	103,183 20
April 8, 1870	1052	7417	do	31,267 90
April 22, 1870	1195	7581	do	42,624 14
April 22, 1870	1207	7580	do	950,053 94
May 16, 1870	1662	7931	do	9,352 54
June 13, 1870	1996	8147	do	11,886 73
July 7, 1870	2380	8398	do	48,455 46
August 27, 1870	2750	8699	do	46,947 91
September 23, 1870	2872	8817	do	11,188 59
October 12, 1870	3055	8991	do	14,703 69
				4,120,937 67

APPENDIX D.

TREASURY OF THE UNITED STATES,
Washington, December 23, 1870.

The within statement was made after an examination of the military side of the books, but an examination of the civil side shows that there was a further amount of twenty-five thousand dollars, ($25,000,) paid to General Butler by Treasury draft No. 127, on warrant No. 1205, issued September 25, 1868.

F. E. SPINNER,
Treasurer United States.

APPENDIX F.

WASHINGTON, D. C., *January* 10, 1871.

M. A. CLANCY sworn and examined.

By Mr. NEGLEY:

Question. State your residence and occupation.—Answer. I reside in Washington; I am a clerk.

By Mr. FARNSWORTH:

Q. Do you hold any official relation to the board of managers of the National Asylum for Disabled Soldiers?—A. Not to the board of managers, but to the president of the board of managers.

Q. As such?—A. As such.

Q. What is your official relation?—A. Clerk.

Q. You are clerk to the president of the board of managers?—A. Yes.

Q. As president of the board of managers?—A. That is what I understand.

Q. Who is the secretary of the board of managers?—A. Mr. Lewis B. Gunkel.

Q. How long have you occupied this relation?—A. About a year and ten months.

Q. Do you hold any other clerical or official position?—A. I do.

Mr. BUTLER objected to the question, for the reason that his private affairs were not to be inquired into. He said that he understood the animus of the investigation, and he wanted it confined to the matter before the committee. The witness might not feel himself compelled to object, and therefore he (Mr. Butler) objected.

Mr. NEGLEY remarked that whatever was relevant to the investigation might be properly brought out before the committee.

Mr. FARNSWORTH said that he regarded it as important to get at the status of the witness. It was usual to ask witnesses their occupation.

Mr. NEGLEY. The witness has already stated his occupation to be that of a clerk.

Mr. FARNSWORTH, to witness:

Q. Clerk for whom?—A. For the president of the board of managers of the National Asylum.

Q. Clerk for anything else?

Mr. BUTLER. With regard to the board of managers?

A. Nothing else.

Q. What salary do you receive?—A. Fifteen hundred dollars.

By Mr. SLOCUM:

Q. Fifteen hundred dollars in that capacity?—A. Yes.

By Mr. FARNSWORTH:

Q. Were you in the Army?—A. I was not.

Q. Are you acquainted with the several officers at the different asylums—the home asylum and the branch asylums?—A. I know the names of the different officers, and I believe I have seen them all personally—that is, the governors; I do not know all the subordinate officers.

Q. I have reference to the governors or lieutenant-governors, or whatever they may be called?—A. Deputy governors, I believe, is the title they have.

Q. Who are the officers at Dayton, Ohio?—A. Colonel E. F. Brown is the deputy governor at Dayton.

Q. Who is the governor?—A. I do not know of any one who is governor now.

Q. Who preceded Brown as deputy governor at Dayton? did any one?—A. I believe some one did, but I do not know.

Q. Do you know any of the other officers at Dayton?—A. The treasurer is J. B. Thomas; I believe his military rank is captain.

Q. What is the salary of the deputy governors?—A. I do not know.

Mr. BUTLER stated that in the printed reports the salaries of all the officers were set out, and who they were.

Mr. SLOCUM inquired whether they were disabled officers.

Mr. BUTLER. Always; they must be, by law.

By Mr. FARNSWORTH:

Q. Is Mr. Brown a disabled soldier?—A. Yes; he has lost his right or his left arm.

Q. And Captain Thomas?—A. I do not know what his disability is.

Q. Have you seen him?—A. Yes.

Q. Does he appear to have any disability?—A. He appears to be a man not in good health.

Q. Where did these officers serve in the war?—A. I do not know.

Q. Or with whom?—A. I do not know.

Q. Have you never heard?—A. No, sir.

Q. Are you acquainted with the officers at Milwaukee?—A. I have only seen the governor once.

Q. Who is he?—A. Colonel John Wooley. And the treasurer is Dr. O. H. Crandall.

Q. State to the committee whether either of these gentlemen was disabled in the service.—A. I have no knowledge of their antecedents.

Q. Do you know where they served, or with whom?—A. I do not.

Q. Have you never heard?—A. I never have.

Q. You have seen them?—A. Once.

Q. Do they appear to be disabled?—A. I did not note any marked disability, such as the loss of a limb.

Q. Do you know Mr. Cassell?—A. I do.

Q. Was he not deputy governor at Milwaukee?—A. He was.

Q. Was he a disabled soldier?—A. I do not know.

Q. Did you never hear that he was?—A. I do not know that I ever did.

Q. Do you know the officers at Augusta, Maine?—A. I have seen the deputy governor, General William S. Tilton. He is also the treasurer. The two offices—deputy governor and treasurer—are combined.

Q. Is he disabled?—A. I do not know.

Q. Do you know anything of the purchase of property near Fortress Monroe for an asylum?—A. I cannot say that I know anything of the purchase of the property in any definite way.

Q. What do you mean by a definite way?—A. The time and place and the parties from whom it was purchased.

Q. Do you know the property?—A. I have seen what I suppose to be the property.

Q. When did you see it?—A. I do not recollect exactly when; I think it was in March or April last.

Q. Was that before or subsequent to its purchase?—A. I think it was before.

Q. Who was with you when you saw it?—A. Some of the members of the board of managers of the National Asylum.

Q. Who?—A. General Martindale, General Cavender, I think; General Osborn, Dr. Wolcott, and Judge Bond; I think those were all.

By Mr. BUTLER:

Q. Was not Governor Smyth there?—A. I believe he was.

By Mr. FARNSWORTH:

Q. Of whom was the property purchased?—A. I do not know that I can state of my own knowledge.

Q. Did you see the proprietor of it at the time when you saw the property?—A. No, sir.

Q. Do you know who offered it for sale—who first broached the subject?—A. I do not know that I do.

By Mr. SLOCUM:

Q. Where is the deed of the property kept?—A. I do not know; I never saw any deed of the property.

Q, Do you know where the searches of the title deed are kept?—A. I do not. If I may be allowed to explain to the committee why I said that definitely I do not know about this matter, of course I know, as a general fact, that the property was purchased; but when it was done, or by whom it was done, I know nothing except in a general way. I know nothing of the details or the exact facts in the matter.

By Mr. FARNSWORTH:

Q. I ask you from whom you first heard of the property.—A. I do not know from whom.

Q. Do you recollect when you first heard mention of that property as being for sale?—I do not know that I can state it. I do not remember of whom, nor when I heard it. I do not know that I ever heard it mentioned by any one as being for sale.

Q. Do you know what was paid for it?—A. I do not.

Q. You never heard?—A. I have heard that $50,000 was paid for it.

Q. Did you hear whom it was paid to?—A. Excuse me. I said that I have heard, but I cannot even use that expression, because I do not know whom I ever heard say that. It is only that this knowledge has come to me in that same general and indefinite way, so that I cannot fix the time or the source whence I received it.

Q. Is there any other secretary or clerk of any of the board of managers or of the president of the board here in Washington besides yourself?—A. Not that I am aware of.

Q. Whereabouts is that land situated with reference to Fortress Monroe?—A. The land that I saw I should think is about one mile west, or nearly west of the fortress.

Q. By what term was it known before the purchase; had it any designation?—A. I have heard that it was called the Chesapeake College.

Q. How many acres did it embrace?—A. I do not know.

By Mr. SLOCUM:

Q. What buildings were upon it at the time?—A. At the time I saw it there was one large building, apparently a large public building, a college building or a hotel building; I do not know exactly how to describe it.

Mr. BUTLER remarked that the building was used during the war as a hospital, and that it was now to be used as an asylvm for the colored soldiers.

By Mr. FARNSWORTH:

Q. Were there any other buildings on the property, shanties or otherwise?—A. There was near this building a small cottage building, which was nsed, I think, as a dwelling-house.

Q. What I want to inquire about is whether this property had been settled upon or squatted upon by the colored people, any part of it?—A. I did not see any sign of such habitations.

Q. You did not see the proprietor of the property?—A. Not to know him.

Q. Do you know of the president of the board of managers of the National Asylum owning any property at Fortress Monroe?—A. I do not.

Q. You never heard of it?—A. Not in any direct way.

Q. What do you mean by a direct way?—A. I mean that I may have heard it as a matter of rumor or hearsay, or obtained it in some general way such as we get knowledge or impression of facts.

Q. Did you ever hear him say that he owned property there?—A. Not that I am aware of.

Q. Have you anything to do in the matter of keeping the accounts of the board of managers or of the treasurer of the board of managers?—A. No, sir.

Q. You keep none of their accounts?—A. No, sir.

Q. You have nothing to do with them?—A. Not as to the accounts of the treasurer of the board of managers.

Q. As clerk for the president and treasurer of the board of managers?—A. If you will allow me to explain, I will state in this connection that the treasurer and president gives me from time to time various amounts of money to be disbursed on various accounts. Some of these accounts are what may be called the petty accounts of the National Asylum—such as an individual would disburse sums of money upon. That is the only connection which I have in a money way with the accounts or with the financial business of the asylum.

Q. You have nothing to do with making deposits for the treasurer?—A. Nothing whatever.

By Mr. BUTLER:

Q. Your business as clerk is to take care of the correspondence of the president of the board of managers?—A. That is my principal business.

Q. To attend to meetings of the board of managers and to phonograph their proceedings?—A. Yes, sir.

Q. To examine and pay petty vouchers, like transportation for disabled soldiers here and there, and to fill up blanks for admission when application is made to me?—A. Yes.

Q. Please state about how many letters a day you have on this business—letters and references?—A. I do not know that I can state without making some examination to that effect; I only know they are very numerous and require considerable time.

Q. And these sums that you disburse are for these small matters of transportation—sending a man here or there, and for the traveling expenses of the board of managers, and also for stationery and office expenditures, of that description?—A. Yes, sir; I believe there are five heads under which my petty expenditures are made. One is for traveling expenses of the board of managers and office expenditures, such as stationery, telegraph bills, and other small matters. Another is transportation, which is the furnishing transportation to soldiers from point to point, as it occurs in a certain kind of irregular way. The bulk of these transportation accounts are paid, as I understand, by the treasurers of the various asylums. Another is out-door relief—little sums that are disbursed to soldiers in transitu. Sometimes a soldier wants to go to an asylum, and it is necessary for him to remain at a place for a day or two; he has nothing to subsist upon, and I disburse to him $1, $2, or $5, as the case may be, to get him along. Then there is my own salary.

Q. You say that you saw the board of managers at Fortress Monroe; state whether the majority of the board resolved themselves into a committee to go and examine that property, and whether you attended them for the purpose of acting as clerk?—A. That is my recollection.

By Mr. SLOCUM:

Q. As secretary of the committee?—A. Yes.

By Mr. BUTLER:

Q. Did the board come to any resolution upon the question while it was down there examining the property?—A. In no formal way that I know of.

Q. So that there were no proceedings to record?—A. There were no proceedings to record.

Q. The president of the board did not go down with that committee?—A. He did not.

Q. Was that at a time when Congress was in session?—A. I think it was.

By Mr. SLOCUM:

Q. There was no resolution passed by that committee?—A. Not in any formal way that I am aware of.

Q. And no record of the proceedings was kept?—A. Not by me.

Q. By anybody?—A. I do not know that there was. Only in a general way I have the impression that there was from subsequent proceedings.

Q. That is to say that there was some meeting down there where something was done and recorded, and you was not present at it?—A. No, sir. I understood that the committee of the board of managers went down there for the purpose of inspecting this property with the view to purchase, and that the committee was to report at some subsequent meeting of the board of managers what its conclusion upon the matter was.

By Mr. BUTLER:

Q. Did that committee also have it in charge to make examination and see whether it was not proper to have a place for colored soldiers, and did the committee go to Richmond in the course of that examination?—A. The committee went to Richmond; but I do not know that I can answer definitely the first part of the question, anything more than that is my impression.

By Mr. SLOCUM:

Q. Were you ever present at any meeting of the committee or of the board of managers as recorder when a resolution was passed to purchase that property, either upon that visit or subsequently?—A. I think I was present, but not as recorder.

Q. Who did record the proceedings?—A. I think that Mr. Gunkel, the secretary of the board, did.

By Mr. FARNSWORTH:

Q. Is your permanent residence in Washington?—A. Yes, sir.

Q. How long have you resided here?—A. Over five years.

Q. Where are you from?—A. My native place is Portland, Maine.

Q. Did you come here from there?—A. No, sir; I came here from Philadelphia.

Q. How long had you resided there before you came here?—A. About a year.

BENJAMIN D. WHITNEY sworn and examined.

By Mr. FARNSWORTH:

Question. State your residence and occupation.—Answer. I reside in Washington; I am a clerk.

Q. How long have you lived in Washington?—A. Four years.

Q. In what employment?—A. As a clerk.

Q. For whom?—A. In the office of General Butler, and sometimes as clerk to corporations—the Market-House Company, for instance. In the absence of General Butler and his clerk during the intervals of sessions of Congress, I represent the National Asylum, so far as giving transportation and examining soldiers.

Q. And you are now clerk to the Market-House Company?—A. Yes, sir.

Q. Anything else?—A. Not to speak of.

Q. Anything else not to speak of?—A. No, sir.

Q. Is your only connection with the board of managers of the National Asylum what you have stated it to be in the absence of Mr. Clancy?—A. Precisely. I have to examine the thousand applicants that call at General Butler's office in the course of the year. The examination is as to their fitness to be forwarded to the asylum.

Q. Do disabled soldiers come to Washington to be examined as to their fitness for admission to the asylum?—A. Yes, sir; in very large numbers. They come here for bounty or pensions. It is a central point for them.

By Mr. BUTLER:

Q. Is there any regulation by which they have to come here?—A. There is no regulation by which they have to come here.

By Mr. FARNSWORTH:

Q. But many of them do?—A. Many of them do.

Q. And in the absence of any one else you decide on their fitness for admission?—A. I do, with the assistance of an examining surgeon.

Q. What salary do you receive for that?—A. Nothing.

Q. Do you work for nothing?—A. I do that work for nothing.

Q. Do you not receive any salary from the board of managers, or from the treasurer of the board of managers?—A. No, sir.

Q. Have you nothing to do with the keeping of accounts in regard to that?—A. Nothing at all. I have stated my entire relations with the National Asylum. If I am at leisure and a half dozen soldiers come to the office they are referred to me.

Q. Then you are not at all a secretary of the board of managers?—A. Not at all, and I can give no information about the board.

Q. You know nothing of its doings?—A. Nothing at all; I know personally the managers of the asylum favorably and well, but I have nothing to do with the records of the correspondence. I have books of record stating the examination of six or seven hundred soldiers that have been forwarded under my own examination. The office is a sort of breakwater for the executive. I have sent forward upward of six hundred persons to the asylums.

Q. Within what length of time?—A. Within three years; and three times that number have been rejected as unfit.

Q. Do you know how many there are in the different asylums?—A. Three or four thousand.

Q. As many as that?—A. That is my impression.

Q. Then a very large proportion of them come to Washington for examination?—A. Yes, a great many of them. I am compelled to examine many who are sent to the office by General Dent. Hardly a day passes that there are not twenty soldiers there, and perhaps I have to examine nineteen of them and eighteen of them are rejected.

Q. All through the year?—A. Through the year.

Q. Do you do that this winter?—A. In the absence of Mr. Clancy I do it.

Q. But do you do it while he is here?—A. Yes, sir; when I am not occupied, I am very happy, indeed, to do it.

Q. And they come pouring in every day?—A. Every day. I have them come in the morning. I am a pretty early bird, as old men generally are, and I require that they shall be at the office at 8 o'clock. Sometimes, when I come to the office at 8 o'clock, I find ten men there waiting for examination.

Q. What is your other business?—A. I represent at this present moment some twenty cases before the Mexican commission, involving very large amounts and requiring a great deal of clerical labor.

Q. Do you represent them as an attorney?—A. No, sir; I am a clerk.

Q. Do you act as attorney?—A. As attorney in fact simply.

Q. For whom?—For the various claimants, my constituents.

By General BUTLER.

Q. I want you to give the committee the form in which this business is done. Say whether I state it correctly. There is a printed form of application, which has to be filled up by somebody for the soldier, then the soldier goes before an examining surgeon and is found to be disabled then he returns and gets the signature of the president or of one of the board of managers?—A. Yes, sir.

Q. Then the admission is signed?—A. Yes; I have nothing to do with the signature admitting them that is done by the president.

By Mr. SLOCUM:

Q. Do you require the soldier to produce his discharge?—A. In all cases. That is a *sine qua non*.

By Mr. BUTLER:

Q. And his pension certificate?—A. And his pension certificate, if he has got a pension.

Q. Then a certificate of transportation is given him?—A. Precisely.

Q. With coupons for the several railroads over which he passes?—A. Yes.

Q. That is also signed by the president or by one of the board of managers?—A. Exactly.

Q. And there is an arrangement made with the railroads by which these men travel at half price upon their certificates?—A. That is it.

Q. The soldiers can go to any one of the other eleven members of the board of managers and have that same thing done for them in any part of the country?—A. That is it.

Q. What brings such a large number of disabled soldiers here is that they come here to get their pensions or bounties and find themselves without money and without care?—A. Yes, sir; that is it.

WASHINGTON, D. C., *January* 18, 1871.

Hon. BENJAMIN F. BUTLER sworn and examined.

By Mr. FARNSWORTH:

Question. I desire that General Butler should first state his official position in his relation to the board of managers of the United States military asylums.—Answer. I

was elected president and afterward acting treasurer of the board of managers, and have been so since its organization.

Q. Please state to the committee the amounts of money that have been drawn by the board of managers, or yourself, for the asylums, and from what funds, and the several dates.—A. When this investigation was ordered I applied to the Treasurer of the United States for a certified voucher of the amounts, and from what funds drawn from the Treasury, with the dates; and I received from him the following letter of transmittal with this paper, which contains the amounts to the date. This is his certificate. My accounts were made out up to the 15th of October, and this is dated the 17th. (Copy of letter appended and marked A, and also the statement of account.) That contained, when it was received, these amounts, which were all, with one exception. Upon examining the amounts myself at home I found there was one omitted, notwithstanding the particularity of this certificate. Not having the means of verification at Lowell, and being obliged to leave on the 20th to meet the board at Dayton, I kept this certificate, as it then was, as my voucher; and I give it to you as the answer to the question. When I returned to Washington on the 17th of December, I wrote a letter to the Treasurer, of which this is a copy. (The copy is appended and marked B.) Thereupon Mr. Treasurer Spinner returned this letter with the indorsement which you see. (See copy, marked C.) So that now the statement of moneys drawn from the Treasury is absolutely correct so far as I know.

Q. Up to the present time?—A. No, sir; up to the date of that letter.

Q. What amount has been drawn since?—A. That I cannot answer with certainty, but very nearly. By the rules of the Treasury Department the accounts are made up every month, and I get, from the 5th to the 17th, the money. I think I got, about the middle of October, $14,000. About the 7th of November I got $14,000; and I got, I think, $22,000 in December, on the 9th or 10th, perhaps not till the 17th. I then collected the interest up to the 5th of January on the investment; was, I think, $27,000 in gold; and also a $52,000 draft, which was made up to the 1st of January. There was one amount of $5,000 which I forgot to mention, which I did not get till the 5th of January.

Q. Does that contain the interest drawn at different times prior to making up the account?—A. I do not remember. If it does not, here is another one that does. There is here, also, a certificate of the amount of United States registered bonds, with the dates and descriptions of the bonds, and the amount of interest paid in coin or currency, which contains $5,000 not drawn at date, and which I had forgotten to draw. The checks on these various amounts, if I remember right, are those made by this committee, when they examined this statement and compared it with my accounts. I might state here that, on the 30th of last December, the accounts of the National Asylum were overdrawn on the acting treasurer, by the several branches, to the amount of fifty-odd thousand dollars; that is to say, I had paid out more money than I had received. It became necessary to settle up bills on the 1st of January, and before I could get the January accounts, the amounts paid out by me amounted to over $50,000, so that on the 31st of December the asylum owed me nearly $50,000, which I could have got if I had been here, and the account had passed the several Auditors.

Q. What donations or grants, other than in money, have been received from the Government?—A. None, except some condemned cannon and some lumber at Camp Chase, and one suit of clothing for each soldier, which is given as he goes in.

Q. No real estate and no personal property?—A. No, sir.

Q. Can you state what amounts have been received, by way of donations, from charitable bodies, States, or towns?—A. I can state with substantial accuracy. We received from the ladies at Milwaukee the donation of about $90,000 in United States bonds, 7-30's, and other United States securities; about twenty-five acres of land, which they had bought for a soldier's home; and some wild land, which had been subscribed for them, amounting to very little value, around in various parts of Wisconsin, where men had given lots of land, and one small lot in Milwaukee, from which we have realized some $250. From Dayton, the citizens, or a meeting of the citizens, or some body of people there—I do not speak with accuracy—gave $20,000 or $30,000 toward buying the site for the asylum. If we chose to locate in Columbus, the State of Ohio gave the old furniture of an asylum in Columbus; and from the relics of a hospital fund we received $10,000 in 7-30 bonds. The newspaper branch of the Army of the Potomac gave us, I think, one hundred and twenty-odd dollars. These are all the donations that I now remember having received. A gentleman has died in London, by the name of Ward, who gave us $100,000; but his estate is in the process of settlement, and I have taken the necessary measures to make good our claim in London.

Q. Can you state how much has been received from the pensions of inmates of the asylum?—A. Nothing that comes to the asylum of any consequence. The rule of the administration of pensions is this: by the act we are allowed to take all the pensions; they are all assigned to us by law, when the pensioner enters the asylum, to be used as we think fit. Under a regulation of the board, made in September, 1868, I think, we established this rule, that all pensions should be paid to the treasurer of the

branch asylum; that where the pensioner had a wife, child, father, or mother dependent upon him, the pension, or so much of it as he directed, should, through the treasurer, be sent to the relative so dependent, in money on his order; and for that purpose I got each of the asylums made a money-order office so that we could transmit the money orders. And if he had no one dependent upon him, then he could say whether his pension should pay for his clothing, independent of the suit given by the United States, and the remainder invested by the several treasurers of the several branches in savings banks or in such other manner as they could, under their official bonds, for the benefit of the pensioner, so that if he went out into the world with an honorable discharge, able in any way to support himself, he should have the money to help him start in business. If it was evident that he never could go out, it was paid back to him in small amounts for his convenience in obtaining necessaries. If at any time he was honorably discharged, the balance was paid over to him by the treasurer; but if he deserted, the balance in our hands was forfeited to the asylum. I have nothing to do with these moneys. These are administered by each treasurer at each branch, and the accounts are audited once in three months, so that if the pension is taken up in small amounts, it is shown by the accounts of the asylum, and not by mine.

Q. Is there a treasurer at each asylum?—A. There is.

Q. Does he draw on the treasurer of the board for sums to carry on the asylum?—A. The method of administration is this: Each quarter the board meet, receive the accounts of the previous quarter, and examine them. There is a careful system of accounting, and then estimates are made for what will be wanted for construction, for current expenses, clothing, subsistence and out-door relief, which is an expenditure that the board is authorized to make. That is made up and reported to the board or the president, and then an appropriation is made, and a resolution, under the seal of the institution and the board, is made, and the secretary of the board countersigns it, and it is returned to the general treasurer as so much subject to draft. These amounts are then sent to each treasurer as they are wanted; usually one-third every month of the quarter—sometimes more, sometimes less—as where construction is going on, that construction may or may not call for all that is wanted at once. For instance, if construction goes on faster than it was expected, more will be wanted at once; and if a little slower, then it will not be drawn so fast.

Q. Much of that can be understood; cannot you condense your answers?—A. I cannot, and give you the exact state of the facts.

Q. Does the treasurer of the asylum draw on the board for anticipated wants?—A. No, sir; it is forwarded as wanted by a certified check or draft.

Q. Who certifies?—A. That is done where the treasurer happens to be. If he were in Washington, it would be there; if in New York, it would be there; and if at Lowell, it would be there, at some bank in either place. We used to allow the treasurers to draw, but in some instances there were found to be great delays by the banks in transmitting, therefore it was thought best to take this course.

Q. Where are the accounts of the board of managers kept?—A. Wherever the treasurer happens to be. When in Washington, they are here.

Q. I mean the bank accounts; where do you deposit?—A. After the money is appropriated, that amount is taken up by the treasurer on his bond, as by himself, and deposited in his bank; sometimes a portion in Washington, sometimes in New York, if needed there; sometimes in Boston, if needed there.

Q. Do you give bonds?—A. I give bonds to the amount of $100,000.

Q. How much have you now on hand belonging to the asylum?—A. I have probably $25,000.

Q. In cash?—A. In cash; I have no bonds whatever.

Q. Where are they?—A. All the bonds which we have are registered bonds, in the name of the National Asylum, which cannot be drawn or sold without a resolution of the board.

Q. This money is paid to you in currency, is it not?—A. Yes, or in gold at currency value.

Q. Who converts that into currency, do you?—A. Generally. There are four instances in which it has been done otherwise. When a larger amount has been appropriated than will probably be wanted through the year, it is converted into bonds, which has happened in four instances.

Q. Then you do it?—A. Yes, sir, I do it.

Q. Where are these bonds kept?—A. They are kept in the safe of the Institution for Savings, at Lowell, Massachusetts, where I keep other valuables of my own, and which I cannot take about the country. They are registered bonds.

Q. What bank is that?—A. It is a savings bank.

Q. Are all the bonds registered bonds?—A. Every bond I have is a registered bond.

Q. Have you a list of the bonds?—A. Yes, sir; the amount is $1,416,000.

Q. Are the dates when they were purchased given?—A. The dates when they are registered are given.

Q. Aside from the registered bonds, then, you hold not to exceed, as you stated,

$25,000?—A. Not to exceed $30,000, I am certain. Sometimes I have larger sums than that.

Q. Are you obliged to convert these bonds into currency for the purposes of use?—A. Whenever out of funds. Before the resolution was passed, by giving the sick and deserters' account to the soldiers' fund, last March, we converted $50,000. That was by a resolution of the board, and that was transferred to the treasurer directly; and it was sold at once to the Treasurer of the United States. Mr. Boutwell was kind enough to take the bonds, as he was then buying United States bonds.

Q. If I understand you, you have received, on behalf of the asylum, from the Government of the United States, between from four and five millions of dollars?—A. That amount, plus $25,000.

Q. That amount has been converted into bonds?—A. No, sir; by no means.

Q. What portion of it, then, has been converted into bonds, and what not converted?—A. The whole amount converted into bonds, plus $50,000, is $966,250, (1867s;) $200,000, (10-40s;) $300,000, (Pacifics.) [See copy appended and marked D.]

Q. That is all?—A. That is all.

Q. The balance of this four and a half millions, or thereabouts, has been expended without having been first converted into bonds?—A. Yes, sir; from day to day and from time to time, in construction and in expenses.

Q. And no interest was drawn upon that?—A. No, sir.

Q. Where did you make your deposits of that?—A. I never had that amount at one time; all that was not wanted for quarterly appropriations was converted into bonds. No bank account of that has been kept with the National Asylum.

Q. You made your appropriations only from quarter to quarter. Did you have this money yourself?—A. No, sir.

Q. Where was it?—A. It was in the Treasury of the United States.

Q. Then from month to month you had it?—A. Yes, sir.

Q. Then you might have the amount for two months on hand, might you not?—A. Sometimes I would, and sometimes I would not.

Q. Did you deposit this money?—A. Yes, sir; but not in the name of the National Asylum.

Q. Where and with whom did you deposit it?—A. I deposited it, as money in my own hands, according to my residence for the time—sometimes in Washington as a portion of my bank account here, sometimes in New York, and sometimes in Lowell.

Q. It was a portion of your own individual bank account?—A. Certainly.

Q. With nothing to distinguish it from your private account?—A. Certainly not.

Q. In what banks did you deposit it?—A. In Washington, with Jay Cooke sometimes, and sometimes in the National Bank.

Q. In Lowell with which bank?—A. In the National Bank.

Q. Who are the officers of that bank?—A. I cannot tell you; I am there so little that I do not know who they are, except perhaps the cashier.

Q. Have you any interest in that bank?—A. Not a dollar; I wish I had.

Q. Is Mr. Field connected with that bank?—A. Never to my knowledge.

Q. Have you an agent in Lowell who draws or deposits in this bank for the National Asylum for you?—A. I have a part of the time.

Q. Who is he?—A. I decline to answer inquiries into my private affairs.

Q. I wish to know who is your agent, who deposits or draws money for you from the National Bank?—A. I have no agent who does either.

Q. You have none—never have had?—A. I have none.

Q. Then this money, I understand you to say, amounting to some three millions and upwards, which has not been converted into bonds, has been kept by you on deposit in your individual account, and drawn and disbursed by you, without keeping any separate account?—A. To that I answer, if you so understood me, you very much misunderstood me.

Q. If I misunderstood you, I desire to be corrected; that is certainly as I understood you.—A. I have already explained to you that this money is drawn from day to day, and from time to time; and expended from day to day, and from time to time, in small sums—sometimes the asylum indebted to me, and sometimes I indebted to the asylum.

Q. Do you send to the asylums money from day to day?—A. Almost from day to day, taking the three asylums. I have done exactly this. As I have received from time to time the money, after it was appropriated, I have either charged it to myself, and kept the balances so charged, and sent it off to the treasurers of the several branches, as it was wanted, or sometimes I have sent the very check to the asylum that I have drawn from the treasury.

Q. Have you kept an account of the moneys you have thus sent to the asylums for their expenditure?—A. Certainly.

Q. Have you got it?—A. Yes, sir.

Q. Can you produce it?—A. Yes, sir.

[The book was presented for examination.]

Q. That contains the list, does it, entire?—A. Yes, sir.

Q. Does that give with the amount of bonds and the amount of $25,000 or $30,000 which you now have on hand, the entire amount?—A. It did comprise the entire amount up to the 15th of October, when that was examined in this committee. Subsequent to that time the accounts have not been made up.

Q. When was that book written up?—A. That book was written up at the time I went over all the vouchers, and got them in order to have them vouched. It is necessary to explain. You will observe that there was then an apparent balance in my hands of $98,000. Within four days of that time it became necessary to pay out between $30,000 and $40,000 of that money. It went to the treasurers of the asylums.

Q. Have you any means of telling the committee how much of that money belonging to the asylum you have deposited in your bank in your own private account, all together, from first to last?—A. I cannot. As it was put in and drawn out from day to day, it is impossible, except as the account will show.

Q. The whole of this money, then, has been expended upon these asylums, except the amount you state to be on hand?—A. Yes, sir.

Q. Can you give the committee the probable amount that will be received from the funds which have been devoted to it?—A. I cannot, but I wish I could; and I will state the difficulties. By the law the amounts forfeited by desertions, by sentences of court-martial, by fines, and by unclaimed back pay, that has been unclaimed for three years, are credited for the examination of the auditor, and go to the benefit of the asylum. Then if after a portion of that back pay is credited it turns out that there is a claim made for any of it, by reason of the deserter's having his disabilities removed, or the coming forward of the heirs for the money which was unclaimed, then that amount is charged back; so that the account is a shifting one, and it varies from all possible sums. For instance in the early part of the time it ran up to large amounts; then again later, it ran down as low as $5,000; then up again to $9,000, and then to $50,000. It is impossible to give an exact estimate.

Q. What was the amount of the Quaker fund, as it was called?—A. About $300,000.

Q. In regard to the sites that have been purchased for asylums, what was paid for the site in Maine?—A. There was agreed to be paid $50,000. After the purchase it was ascertained that there were some incumbrances to the amount of $10,000, and $40,000 and interest was paid, and it lay along till some of the incumbrances were off, and then $9,000 more was paid. Then there were two small mortgages that were to be paid off and canceled, and we still retained $1,000 of the purchase money. $49,000 were paid and some little interest.

Q. What was paid for that at Fortress Monroe?—A. Fifty thousand dollars.

Q. How much for that at Dayton, including donations?—A. That appears in the report made by Mr. Gumble. And for that at Milwaukee it also appears as about $100,000.

Q. Who made the purchase at Fortress Monroe?—A. Governor Smith and Mr. Gumble.

Q. Who selected the ground at Fortress Monroe?—A. The whole board, with one exception; that was the president, who was in Congress and could not go down.

Q. Who suggested that property to the board?—A. The president and General Lawton, who had been a sick officer.

Q. You had seen the property before?—A. Oh, I knew all about it.

Q. You had owned the property once?—A. Yes, I had owned that.

Q. From whom did you purchase it?—In many ways. I will state the circumstances. The property at Fortress Monroe was the Chesapeake Female College, which was taken in 1861 for a hospital. While used as a hospital Secretary Stanton desired me to see if the title could not be extinguished. There were eight corporators, four loyal and four disloyal; and there were considerable debts of which we could not tell anything because the records of the courts had been burned at Hampton. Thereupon I purchased four shares at $12,000, and Mr. Stanton ordered the other shares to be confiscated; but before the confiscation got through the courts the order of President Johnson stopped it. When I settled my accounts with Mr. Stanton, I charged the Government $12,000 and credited myself. Mr. Stanton said, "We are in trouble now, about this purchase, which I expected we could settle by an act of Congress, and I cannot take this title." Then I charged back that $12,000. Then the Freedmen's Bureau took it in charge and they occupied it awhile. Then General Schofield occupied it for a time as headquarters, and I tried to get some rent, and I believe I got $300, or something like that. Then one of the loyal owners resided upon it, and he claimed a house there and a lot of an acre, and that was an incumbrance. After that I found a large incumbrance amounting to $20,000 more upon it. When the rebels came back it was settled by a decree of the court. Thereupon I paid $20,000 and odd more; and I have tried and have succeeded in adjusting the title by settling some outstanding debts to the amount of $8,000 more. Then I have tried to make a bargain with the gentleman who claims to own the house and lot. I then, wanting some money, mortgaged it for $38,000. General Schofield wanted to buy it for $64,000, and recommended it to Congress to be bought, but Congress did not act upon the proposition. He wanted more land, includ-

ing the adjoining farm. There are forty acres of land, every one worth $300 an acre and a building which cost, before the war, $65,000, (a large brick building,) as I was told.

Q. Did you sell it?—A. I did not sell; but it was sold with my advice and consent.

Q. You paid $12,000 in the first place on behalf of the War Department?—A. Yes; in 1864.

Q. How much have you paid in all?—A. I reckon a little rising of $42,000, with what I have to pay.

Q. What have you paid actually?—A. I have paid, or my lawyer has paid in the courts, $20,000 and upward. I assumed some debts and agreed to pay $8,000.

Q. Agreed to pay?—A. Yes, sir; and have paid a part of it.

Q. Was that for incumberances upon it?—A. No, sir; liens.

Q. What kind of liens?—A. Some building liens, and some others.

Q. There were other buildings there?—A. Yes, sir; quite a number. And when the War Department got through with them, we tore them down and sold them.

Q. The War Department furnished you the $12,000 to purchase it in the first place?—A. No, sir.

Q. Then you bought it with your own money?—A. I did; and in the settlement of my account it was not allowed me.

Q. Then you recommended it to the board of managers to be purchased?—A. I suggested it and they went down; and they were unanimous in their opinion in regard to it.

Q. How much did they pay for it?—A. Fifty thousand dollars.

Q. Have they a title?—A. They have. But all that has been done, I should say, gentlemen, since this investigation commenced. What we did we did knowing we were under investigation.

Q. Who recommended the proprerty at Augusta?—A. I did not.

Q. Do you know who did?—A. I can tell you all I know about it. A Mr. Beal, who built the Treasury extension had expended $100,000 there in erecting a first-class hotel; and died. His widow came and offered the property, and I told the committee about it, and they visited it.

Q. Did you have any interest in it?—A. Not the slightest.

Q. Had you in any of the other sites?—A. Never; not any, save at Hampton.

Q. Do you know who recommended the Dayton property?—A. Well, I guess General Schenck did as much about that as any one.

Q. The town was anxious to get the asylumn and gave a bonus for it?—A. Yes, sir. The question was between that and White Sulphur Springs. We thought the White Sulpher Springs place was held too high, and we took the place at Dayton.

Q. What officers have been in charge of the asylum at Augusta from the first? Who has been deputy governor?—A. The first deputy governor was E. W. Hinks; and he left to go into the Army as lieutenant colonel. The next was Colonel Nathan Cutler of Maine, near by. The next was Charles Everett, who has left to be examiner in the Patent Office here. The next was Colonel E. A Ludwig, and the present deputy is General W. S. Litton.

Q. Who, at Milwaukee, have been deputy governors?—A. The first was Theodore Yates, I think, a retired officer of the United States Army, though I believe he had been a volunteer officer. He was deputy governor from the first until 1870, I think, when Colonel Cassel was sent as acting deputy governor; and in 1870, having been there less than a year, he was discharged or resigned, and Colonel Woolley, of Cincinnati, who was provost marshal at Baltimore under General Dix during the war, was appointed deputy governor.

Q. Had either of these gentlemen been disabled by wounds in the service?—A. Mr. Yates was a retired officer, on account of wounds. Major Cassel, who was the acting deputy governor, was not disabled. Colonel Woolley was disabled and reduced by sickness. I never knew him. (In answer to conversation.) I want to say that I do no purchasing for the establishments, except of the Government. I purchase clothing and medical supplies of the Government when they will sell them.

By Mr. SLOCUM:

Q. Did Major Cassel ever serve with you?—A. Yes, sir. I found him, when 1 went to Fortress Monroe in 1864 as provost marshal, and I kept him there.

Q. Is he out of the country now?—A. No; he is at Cheyenne.

By Mr. FARNSWORTH:

Q. Did Woolley serve with you?—A. No, sir; not at all.

Q. Who are the treasurers of these institutions?—A. O. S. Crandall is treasurer at Milwaukee; was appointed acting treasurer in November last; and is expected to be surgeon at one of the branches pretty soon. J. B. Thomas is treasurer at Dayton; and he takes the place of a soldier who died there. I believe him to be a disabled soldier.

Q. What is the salary of the deputy governors?—A. Twenty-two hundred dollars, I think.

Q. I see by the law which first incorporated this board that it is provided that on member should be a member of Congress; and upon your election to Congress I understood that portion of the law was repealed?—A. Yes, sir; that was done after I was elected, at the request of the board.

Q. Did you suggest it to the gentleman who moved it in Congress?—A. By no manner of means. On the contrary, the committee of the board, without my wish, went and made the suggestion themselves. I would have been very glad to be relieved.

A.

TREASURY OF THE UNITED STATES, CASH DIVISION,
Washington, October 17, 1870.

SIR: In compliance with request in yours of the 12th instant, I hand you herewith statements of the amounts paid to you on account of the National Asylum, on warrants and as interest on stocks of the United States purchased by you.

The statement of the amounts paid upon warrants I have proved to be correct by the books of the Secretary's Office, of the Second Auditor's Office, and of this Office.

The statement of bonds registered in name of the asylum is certified as correct by the chief of the proper division in the Register's Office, and the account of interest paid is shown by the books of this Office.

You ask for "a certificate of the investment of the National Asylum now in the Treasury." Unless by this is meant a statement of the amount invested in United States bonds, I am at a loss to know what is meant or how it can be obtained.

Very respectfully,

F. E. SPINNER,
Treasurer United States.

Hon. B. F. BUTLER,
Lowell, Massachusetts.

Amounts paid by drafts to Hon. B. F. Butler, president, &c.

Date.	No. of warrant.	No. of draft.	In favor of—	Amount.
June 6, 1866	8394	7194	Benjamin F. Butler	$10,000 00
September 18, 1866	9600	7584	do	45,000 00
January 29, 1867	293	5145	do	220,000 00
July 22, 1867	2982	6894	National Asylum for Disabled Volunteer Soldiers	546,389 87
September 11, 1867	3715	7363–64	do	133,000 00
December 12, 1867	5049	8791	do	62,781 64
January 10, 1868	52	8998	do	111,854 27
April 4, 1868	672	9531	do	286,000 00
May 9, 1868	863	9667	Benjamin F. Butler	176,410 89
July 10, 1868	1725	432	National Asylum for Disabled Volunteer Soldiers	148,778 13
July 21, 1868	1969	697	do	85,139 45
November 13, 1868	3746	2114	do	123,722 24
December 29, 1868	4493	2743	do	163,620 02
February 6, 1869	406	3125	do	89,090 86
March 19, 1869	919	3425	do	40,389 91
April 9, 1869	1267	3741	do	86,296 98
May 14, 1869	1924	4252	do	52,673 12
June 18, 1869	2392	4590	do	68,321 65
July 23, 1869	2911	4912	do	40,091 71
August 10, 1869	3160	5154	do	44,646 56
September 13, 1869	3527	5459	do	33,326 98
October 7, 1869	3867	5682	Benjamin F. Butler, president, &c	5,244 09
November 4, 1869	4236	5926	National Asylum for Disabled Volunteer Soldiers	23,150 49
December 4, 1869	4509	6150	do	26,511 96
December 23, 1869	4744	6319	do	21,718 25
January 15, 1870	70	6459	do	14,386 72
February 7, 1870	375	6643	do	4,625 44
March 7, 1870	687	6948	do	17,870 82
March 8, 1870	688	6947	do	250,231 52
March 26, 1870	962	7092	do	103,183 20
April 8, 1870	1052	7417	do	31,267 90
April 22, 1870	1195	7581	do	42,624 14
April 22, 1870	1207	7580	do	950,053 94
May 16, 1870	1662	7931	do	9,352 54
June 13, 1870	1996	8147	do	11,886 73
July 7, 1870	2380	8398	do	48,455 46
August 27, 1870	2750	8699	do	46,947 91
September 23, 1870	2872	8817	do	11,188 59
October 12, 1870	3055	8991	do	14,703 69
				4,120,937 67

B.

WASHINGTON, *December* 17, 1870.

MY DEAR GENERAL SPINNER: I have the honor to inclose back to you herewith your paper containing the amounts paid by draft to me as president of the National Asylum, which I procured for the purpose of vouching the credit of my account with the National Asylum for the congressional committee, and which was inclosed to me in your letter of October 17, 1870, which contains this certificate: "The statement of the amounts paid upon warrants I have proved to be correct by the books of the Secretary's Office, Second Auditor's Office, and of this office."

With such a certificate and such verification, when I went before the congressional committee, I did not dare set up my own accounts as correct in opposition to it, and therefore charged myself with only the money that your certificate called. But as I had heretofore accounted for more money to the auditing committee of the National Asylum, and also found that I had more to the credit of the National Asylum, than that certificate shows, I venture to reinclose it to you and ask your reëxamination.

If I am correct, I am quite certain that some time in September, 1868, there is another amount received by me on behalf of the National Asylum by draft on the Treasurer. As I have no other description of that credit than that, I can furnish you none. I do not give the exact date, because the date on my books and the date of issue from the Treasury would be different, but not far different.

Please have a reëxamination made and see if I am right or wrong. I should be glad to have it ascertained either way, because if I am wrong I have got more money than I thought I had. If I am right, then it would be a great feather in my cap that my book-keeping is better than that of the United States, with all its checks and balances.

I have the honor to be, very respectfully, your obedient servant,

BENJ. F. BUTLER.

F. E. SPINNER, Esq.,
Treasurer United States.

TREASURY OF THE UNITED STATES, CASH DIVISION,
Washington, June 28, 1870.

MY DEAR SIR: I am in receipt of yours of the 28th instant, and now, as suggested by you, inclose a corrected statement of the bonds registered in the name of the National Asylum for Disabled Volunteer Soldiers, and of yourself as president and treasurer.

I beg to say, in explanation of the inaccuracy in the statement previously furnished, that I had in my office no record of the 10-40 bonds or the Pacifics, they having never appeared upon any schedule that had up to that time been in my possession, for payment of interest; and that the clerk assigned to make up the statement was assured in the office of the Register of the Treasury that the statement furnished you was correct, and I had no means of knowing otherwise.

Very truly, yours,

F. E. SPINNER,
Treasurer United States.

General B. F. BUTLER,
House of Representatives, Washington, D. C.

C.

TREASURY OF THE UNITED STATES,
Washington, D, C., December 23, 1870.

The within statement was made after an examination of the military side of the books; but an examination of the civil side shows that there was a further amount of $25,000 paid to General Butler by Treasury draft No. 127 on warrant No. 1205, issued September 25, 1868.

F. E. SPINNER,
Treasurer United States.

D.

Amount of United States bonds registered in the name of the National Asylum for Disabled Volunteer Soldiers, and of the Hon. B. F. Butler, president and treasurer, and the interest declared and paid thereon.

Date of issue.	Description of bonds, and amounts.		
	1867's.	10–40's.	Pacifics.
July 23, 1867	$504,750	.....	.....
May 11, 1868	161,500	.....	.....
May 26, 1870	70,000	.....	$300,000
May 27, 1870	.....	$170,000	.....
May 28, 1870	.....	30,000	.....
May 31, 1870	230,000	.....	.....
	966,250	200,000	300,000
March 9, 1870. Transferred	50,000	.....	.....
Leaving, now held	916,250	200,000	300,000

H. JENISON, *Chief Loan Division.*

Amounts held at dates when interest became due.

Interest due.	Description of bonds.			Interest.		When paid.
	1867's.	10–40's.	Pacifics.	Coin.	Currency.	
Jan. 1, 1868	$504,750	.....	.....	$15,142 50	.....	Jan. 2, 1868.
July 1, 1868	666,250	.....	.....	19,987 50	.....	July 1, 1868.
Jan. 1, 1869	666,250	.....	.....	19,987 50	.....	Jan. 2, 1869.
July 1, 1869	666,250	.....	.....	19,849 51	.....	May20, 1869. Rebate, $137 99.
Jan. 1, 1870	666,250	.....	.....	19,708 23	.....	Oct. 8, 1869. Rebate, $279 27.
July 1, 1870	916,250	.....	$300,000	27,487 50	$9,000	July 2, 1870.
Sept. 1, 1870	.....	$200,000	.....	5,000 00	.....	Not yet drawn.
				127,162 74	9,000	

WASHINGTON, D. C., *January* 21, 1871.

Hon. BENJAMIN F. BUTLER recalled and examination continued.

By Mr. FARNSWORTH:

Question. At what time is the draft or the money forwarded to the several asylums, at the beginning or at the close of a quarter, for the expenses of that quarter?—Answer. Neither. It is forwarded according as the money is wanted, and as the accounts of the last quarter's or the last month's expenditures show to be necessary. The meetings are not held exactly at the beginning of the quarter; for instance, our last meeting, I believe, was not held till the 17th or 19th of December; the quarter commenced on the 1st. In that case it is necessary sometimes to anticipate the appropriations a little, taking care to keep within a safe amount.

Q. What I desire to find out is whether the treasurer at one of these asylums has the money on hand to meet the current expenses, or does he buy on credit during the quarter?—A. He does not buy on credit, except small articles from day to day, like where a man sends to his grocery.

Q. Does he buy on credit and make bills running a month or a quarter until he gets

funds, or does he have funds on hand?—A. He has funds on hand whenever he makes his estimates.

Q. He makes his estimates and the funds are sent to him?—A. Yes.

Q. Is that the custom?—A. It is the rule. It takes some time to examine the estimates; three or four or five days.

Q. These estimates are examined by the board?—A. No, sir.

Q. By whom?—A. By the treasurer of the board.

Q. Yourself?—A. If you desire to understand it I can show you, by the bundle of accounts which I have here, exactly how it is; I have taken all the accounts here for a quarter, so that you can see exactly what is done.

Q. Does your bundle of accounts show when the money has been forwarded to the several asylums?—A. No, sir. It does with this one; but I have not all the accounts here.

Q. Which one is that?—A. This is the Eastern branch, I think.

Q. I see by this abstract that it gives the amount of interest drawn at the several dates, and the dates when interest was drawn on the registered bonds; what is done with that interest when drawn?—A. That interest, in gold, is sold at the current price of gold, and credited in the account.

Q. Is it added to the funds on hand?—A. Added to the funds on hand.

Q. And deposited with the rest, as you stated the other day?—A. Yes, sir.

Q. It seems that there was a transfer of $50,000 of the bonds last March?—A. Yes; that was in anticipation of the failure of the monthly estimates. It became necessary to do that under a resolution of the board.

Q. The bonds were sold so that you could be in funds?—A. So that we could be in funds. Soon afterward, however, Congress passed a law for the deserters' fund, which put us in funds.

Q. You have not invested in bonds since then?—A. Oh, yes; over $800,000.

Q. I see that, on May 26, you invested $70,000 in the 1867's?—A. Yes.

Q. May 27, $170,000 in 10-40's; May 28, $30,000 in 10-40's; May 31, $230,000 in 1867's; May 26, $300,000 in Pacifics?—A. Yes. Those Pacific bonds are the currency 6's of the United States. They are not the Union Pacific bonds.

Q. Up to last May you had invested but about $660,000?—A. Up to last May I had invested $666,000.

Q. And you had received up to that time how much?—A. I should say, speaking roughly from memory, in the neighborhood of two and a half millions.

Q. More than that?—A. It might possibly be three millions, from the Treasury.

Q. Have you any objection to exhibiting to the committee your bank account, showing the deposit of those funds?—A. I cannot exhibit my bank account showing the deposit of this fund without exhibiting my private bank account, as to which I am under the direction of the committee.

Q. I understood you to say that you have deposited the money in your private account?—A. Part of it.

Q. Everything that is not in bonds?—A. No, sir.

Q. Did you not so state the other day?—No, sir; I did not so state.

Q. In what manner have you deposited it?—A. Sometimes I have not deposited it at all.

Q. You stated that before. But whenever you did deposit it, did you not deposit it in your private account?—A. Yes; as I stated twice before.

Q. Have you any objection to exhibiting to the committee the book showing your private bank account at that period?—A. I am under the direction of the committee. I have no objection to exhibiting it whenever the committee has any evidence or any belief that I have failed to account for any money that I have received. But having the certificate of the committee which examined my vouchers that I have accounted for every dollar that I have received, I do object to the exhibition of my private accounts.

Q. The certificate of what committee?—A. The certificate of this committee.

Q. That you have accounted for every dollar that you have received?—A. Yes.

Q. Have you such a certificate?—A. I have. It was made upon the examination of the vouchers.

Q. When was that received?—A. It was received at the time the vouchers were examined and the accounts were examined on the credit and on the debit side.

Q. Was your bank account examined at that time?—A. It was not; there was no occasion to examine it.

Q. Was that certificate given before any investigation was made, and before witnesses were heard by this committee?—A. No, sir; it was given while the investigation was being held.

Q. For what purpose was that certificate given?—A. Because, when the committee had got through the accounts, and checked them, I wished to have the fact certified.

Q. And you have that certificate from this committee?—A. I have.

Q. Produce it.

WITNESS produces the account book, in which the following certificate is written:

"MILWAUKEE, WISCONSIN, *October* 18, 1870.

"The account contained in the foregoing pages, from 2 to 19 inclusive, was examined by us, members of the Military Committee of the House of Representatives, charged by resolution with the investigation; and the items in the credit side of the account were compared with a certificate from F. E. Spinner, Treasurer of the United States, of all the moneys which stood charged on the books of the Treasurer to the National Asylum, and found to be correct. The debtor side of the account was found to be properly vouched in each item.

"JAMES NEGLEY,
"*Chairman of the Committee.*
"JASPER PACKARD."

The committee declined to order the presentation of Mr. Butler's private bank account.

By Mr. FARNSWORTH:

Q. Tell the committee a little more precisely than you did the other day how much money you have been paid yourself for the property at Fortress Monroe; how much money the board of managers has paid you for that property?—A. Not a dollar.

Q. Did you not own that property?—A. I owned a redeeming interest in it—a right to redeem. There was paid for it, what I stated with great exactness the last time I was examined, $50,000.

Q. Who received that money?—A. Mr. F. Ames Hildreth.

Q. Is he a relative of yours?—A. He is.

Q. What relation?—A. He is a brother-in-law of mine.

Q. How came he to own an interest in the property; do you know?—A. Yes; I explained that the other day.

Q. I do not think his name was mentioned.—A. No, sir; his name was not mentioned.

Q. What was his interest, and how did his interest come?—A. His interest came in my conveying it to him as security for certain moneys which he was to advance on my account some time since.

Q. When was that conveyance made by you to him?—A. I think in the latter part of last winter or early in the spring.

Q. Was that conveyance recorded anywhere, to your knowledge?—A. My belief is that it is recorded in some record in Virginia.

Q. What was the conveyance—a deed, a mortgage, or a trust-deed?—A. It is a deed.

Q. Of that identical property?—A. Of that identical property.

Q. You did it to secure him?—A. I did.

Q. Why did you make an absolute deed if it was to secure him for money?—A. Because I chose to do so.

Q. What was the amount of money which you deeded him this land to secure?—A. Thirty-eight thousand dollars was the amount that I expected to receive from him.

Q. You had not received it then?—A. Not all of it.

Q. Had you received any of it?—A. There was money advanced by him, and I expected to be in an operation with him to some considerable amount.

Q. How much had you received from him at that time?—A. I cannot at this moment tell. I did not know that it would be a subject of investigation.

Q. How much were you to receive?—A. Thirty-eight thousand dollars.

Q. How do you know that it was precisely $38,000?—A. Because I remember.

Q. Then why not tell how much you had received before that?—A. Because I do not recollect.

Q. Can you not refresh your recollection?—A. I cannot refresh my recollection exactly as to how far our negotiation had progressed at the time the deed was made.

Q. You can recollect how much you were to receive, but not how much you had received?—A. That is it.

Q. Are you entirely certain, is your memory accurate, that you had really received anything at that time? Was it not all in the future?—A. I cannot say that I am actually certain that I had received any special sum at that time.

Q. Then, upon reflection you are inclined to think that it was all in the future?—A. No, sir; I am not inclined to think that.

Q. Why not?—A. Because I think the other way.

Q. How long had you owned that property by that time?—A. My first title to it came, as I explained the other day, some time in the year 1864, or in the latter part of 1863.

Q. There had been nothing said about deeding this property to the asylum at the time you made this deed to Mr. Hildreth?—A. No, sir.

Q. You had not thought of it?—A. No, sir; I supposed at that time that it might be ultimately sold to a company at Norfolk for the purpose of a hotel.

Q. What was your arrangement with Mr. Hildreth as to the balance. It was worth more than $38,000, was it not?—A. Yes. I thought so.

Q. How was he to pay you the balance?—A. He was not to pay me the balance if I paid him his money. I have already told you that it was deeded to him for security.

Q. But it would be forfeited if you did not pay the money?—A. Yes, sir.

Q. Did you take a note or anything of that sort from Mr. Hildreth for the money?—A. The arrangement was reduced to writing, in the form of a communication to him.

Q. Have you a copy of that communication?—A. I have not.

Q. What business was Mr. Hildreth engaged in at that time?—A. The same business that he had been engaged in for a long time, that is, being a farmer.

Q. Where did he reside?—He resides in Massachusetts, in Lowell.

Q. I think you said the other day that you had paid $20,000, or deposited $20,000, for the purpose of clearing off the title of the property, besides the $12,000 you had originally paid?—A. Yes, sir, I stated that.

Q. When did you make that payment or deposit?—A. A year ago last September, I think; it may have been in August or July; it was in pursuance of a decree of the court.

Q. Of what court?—A. Of the circuit court of Virginia, for Elizabeth City County, wherein the property is situated.

Q. Did you pay the money to the court?—A. No, sir; I did not; I paid it into the hands of my counselor, Mr. Tabb.

Q. Twenty thousand dollars, precisely?—A. I will not say precisely; I think it was a little more.

Q. Do you recollect whether you paid it by check or in currency?—A. My belief is that it was by a check on New York; but it may have been by a check on Norfolk.

Q. Was there any other property involved in that transaction besides this particular property, which has been deeded to the asylum?—A. None.

Q. Do you own any other property in the vicinity?—A. I do.

Q. How much?—A. I think about two hundred or, possibly, two hundred and thirty acres of farming land.

Q. Did you buy that at the same time that you bought the asylum property?—A. No, sir.

Q. Is it near the asylum property?—A. A portion of it is about two miles off, and a portion of it within a mile.

Q. Did you buy it from the same parties?—A. No, sir.

Q. None of the same parties?—A. No, sir; I got that property by paying to some laborers in the arsenal, when they were sent away, the amount of their trust deeds which they had on this land.

Q. Can you state where Colonel Tabb resides?—A. Yes, near Hampton, Virginia.

Q. Did you receive back any of that $20,000?—A. Not a dollar; but I had considerable to pay.

Q. But you have not paid any more?—A. Yes; I have paid more in another direction.

Q. Be good enough to be particular, and state what other money you have paid and to whom; please state the precise amount.—A. As that other money was paid some two or three years ago, it is pretty difficult for me to recollect. It was paid to creditors and land-holders on this estate; I do not recollect their names.

Q. Did Mr. Hildreth give you the $38,000?—A. He did not.

Q. You never received it from him?—A. Yes; I received a portion of it, from time to time, as we went on with our negotiations.

Q. Have you received it all yet?—A. I think I did, and considerably more with it; and I have been able, by the sale of property, to reimburse him for that and other money which was due.

Q. But did you receive at any time altogether since that transaction $38,000, which he was to let you have?—A. He was to pay out in matters in which we were engaged certain moneys, and I received it in his account in that way.

Q. When the $50,000 was paid for the asylum property it was paid to him, all of it?—A. Yes, sir.

Q. And you did not receive a dollar of it?—A. No, sir; it passed into his hands.

Q. But he credited it to you, of course?—A. I hope so.

Q. Then you did at length receive the benefit of it?—A. O, I did; there is no doubt about that. If this examination was all to get at that fact, I stated it with frankness before.

Q. In regard to the Augusta matter, I think the written accounts show that $50,000 was paid for that property?—A. Forty-one thousand forty-one dollars and sixty-seven cents was the first payment, and $9,000 was paid some time afterward.

Q. Were there heirs, minor children, who had an interest in that property?—A. I do not know, but I believe there were. I believe that Mr. Beale, who owned the property, had some children. I understood, however, that the widow's title was by will. The title was very carefully examined by Mr. Baker, a lawyer in Augusta, and was certified

to us. A portion of the purchase money is still withheld until she relieves certain technical blemishes to the title.

Q. What agents of yours, if any, have paid out money for you on account of the asylum?—A. None, except my clerk, who is not an officer of the asylum. He has paid out some petty cash.

Q. Who is he?—A. Mr. Clancy, who was examined the other day. He kept the petty cash account for stationery, telegrams, &c.

Q. Has not Mr. Whitney paid out some money?—A. Nothing, except giving out a dollar, or two dollars, or three dollars, to some soldier, to sustain him for the time being, while waiting to get his papers.

Q. Has not Mr. Field, of Lowell, paid out money for you?—A. As my business agent, he has drawn checks by my direction, never on his own account.

Q. For money to send to the treasurers of the asylum?—A. No. When I had occasion to send money to various governors, or other officers of the asylum, I have written to Mr. Field, "You will fill out checks so and so," or "You will get certified checks from the banks so and so, and send them to such officers." That is all. I beg pardon; he bought about a thousand feet of leather hose for the asylum. I do not think of anything else.

WASHINGTON, D. C., *January* 21, 1871.

WILLIAM H. WEIGEL sworn and examined.

By Mr. FARNSWORTH:

Question. State your residence and occupation.—Answer. No. 156 Chatsworth street, Baltimore; clerk.

Q. State whether you have been acquainted with the National Asylums for Disabled Soldiers.—A. I have.

Q. What connection have you had with them?—A. I was commandant of the branch home at Rochester, New York, and for a few days I was commandant at the asylum at Augusta, Maine. I have also visited Dayton asylum onbusiness. I took a number of disabled soldiers from the New Jersey State home to the asylum at Dayton.

Q. When were you at Augusta in command as deputy governor?—A. I was in command at that home for twelve days, during the temporary absence of Major Cutler, the deputy governor. That was, I think, in February, 1869.

Q. What is the location of that asylum, is it good or bad?

(Objected to by Mr. Butler, and objection overruled.)

A. It is located, I think, some six or seven miles beyond the city of Augusta, in what I consider to be swamp land. In fact, while I was there, the place was flooded considerably and had frozen over. They had a steam engine at work there, pumping at different times.

Q. Is it a pleasant or unpleasant location?—A. It certainly was not very pleasant at the time I was in command there. There were some two or three feet of snow on the ground, and walking was very bad, particularly for disabled soldiers, some of whom had to walk to Augusta, not having the means for being conveyed there.

Q. Were you acquainted with the other officers there at that time?—A. Major Cutler was the only officer, except the doctor and the matron. I had left my place at Rochester, and was taking a lot of men from the New Jersey State home at Newark, to Dayton, and upon my arrival there I received a telegram from General Butler, president of the board, directing me to assume command during the absence of Major Cutler.

Q. The branch at Rochester was a temporary affair?—A. Only temporary.

Q. Have you ever visited the Milwaukee asylum?—A. I have not.

Q. Are you acquainted with the officers who have been in charge at different asylums other than those you have spoken of already?—A. I know Colonel Brown, who was in command of the Dayton home when I was there, and I know Colonel Woolley, who is said to be in command of the Milwaukee home now.

Q. Do you know Colonel Cassell, who was in command at Milwaukee?—A. I know a Major Cassell.

Q. Where did you know him?—A. I knew him as General Butler's provost marshal at Fortress Monroe.

Q. When was that?—A. When the general had command of the Army of the James, with his headquarters at Fortress Monroe.

Q. Where did you know Colonel Woolley?—A. I was associated with Colonel Woolley on General Lew Wallace's staff at Baltimore. He was provost marshal, and I was assistant provost marshal. He and General Wallace went to Texas on some special expedition, and I was left in charge of the provost marshal's office during his absence, for some three or four months,

Q. Do you know where Major Cassell now is?—A. I saw him in Washington a few days ago. I have seen him several times since I have been here.

Q. Of the officers who have been named, how many, and who were disabled in the

service?—A. Colonel Brown is the only one disabled to my knowledge. I never heard that either Woolley or Cassell was disabled.

Q. Do you know Dr. Crandall, the treasurer at Milwaukee?—A. No, sir; I do not.

Q. Do you think of any of the other officers who were disabled besides Brown?—A. I had heard that Major Cutler had received several wounds in the service. There is nothing in his appearance that would denote that he had been disabled.

Q. Neither Cassel nor Woolley were disabled?—A. Not to my knowledge. I never knew that Woolley was disabled, and I was with him day after day and night after night for many months, in Baltimore, in the same office. I never heard that he got near enough to the enemy's troops to get wounded or disabled.

Q. How was it about Cassell?—A. It is much the same about him.

Q. Was Cassell in New Orleans?—A. Not to my knowledge.

Q. Did you serve with General Butler?—A. I did.

Q. How long?—A. I joined General Butler in Annapolis, in 1861, before he came into Baltimore. I gave him some information in Annapolis which I think enabled him to make his movements on Baltimore. The night he arrived in Baltimore I met him and carried dispatches for him, at the risk of my life, to Fort McHenry. I remained with him during the time he was in Baltimore, and then, as my life was in considerable jeopardy, I wrote to the general and stated the facts to him, and he sent for me to join him at Fortress Monroe in 1861. I left him in New Orleans, I think in November, 1862.

Q. State whether, when you were at Augusta, you had any means of knowing of the purchase of that property; and if so, what you learned with reference to the purchase?

(Objected to by Mr. Butler as mere hearsay evidence, and objection sustained.)

Q. State what you know about it?—A. I have no personal knowledge on the subject, except from common rumor and report among the citizens of Augusta whom I met with during my stay there.

Q. In regard to the purchase of supplies for the asylum, what is your knowledge on the subject; how were they purchased, and by whom; was it fairly done or not?—A. The supplies purchased at Augusta, Maine, were all purchasd by Major Cutler, at least it was so reported there. I had no occasion to purchase any myself while I was there; but it was conceded that he was the agent for the purchases.

By Mr. NEGLEY:

Q. Conceded by whom?—A. Conceded by the business men whom he dealt with.

Q. Do you know whether the purchases were made for cash or on credit?—A. They had a pass book or several pass books on which articles were bought and entered. I cannot say exactly whether it was for cash. I saw the pass books being carried between the asylum and the town. There were some supplies bought, but whether for the matron or the asylum I could not say. I did not think there was much use for me there as commandant of the home; the matron seemed to command everything herself.

Q. You were at Dayton?—A. Yes, I was there a short time.

Q. State to the committee anything you know about the manner of conducting that asylum.—A. I know nothing at all about it, excepting correspondence which I had with one of the officers of the home while I was in command at Rochester, in which he complained of thieving going on there.

Q. Who was that?—A. Colonel Brown, the deputy governor. He complained that there was a good deal of rascality going on there.

Q. Do you know anything of the character of Major Cassell?—A. Only by reputation.

(Mr. Butler objected, but after some discussion he withdrew his objection.)

Q. State the reputation of Major Cassell.—His reputation by common report is very bad. I think that can be easily established by sending to Pittsburg, where he lived.

Q. Were you acquainted with what people said of him?—A. I have heard a good deal said of him. I was personally acquainted with him.

Q. Did you serve with him?—A. No, sir. He was provost marshal at Fortress Monroe while I was provost marshal at Baltimore.

Q. What was his reputation for honesty and integrity?—A. Very bad.

Q. What was his reputation as an officer?—A. His reputation at the time he was in the Army was very bad as an officer. When I say very bad I speak of the general reputation he had among officers and others who had business with him.

Q. That was in 1864?—A. That was in 1864, just previous to the time that the general was relieved of the command of the Army of the James.

Q. You stated that you were twelve days in Augusta.—A. Yes, twelve or fourteen days.

Q. You were there in midwinter?—A. Yes; in the month of February.

Q. When the ground was covered two feet with snow?—A. Yes.

Q. Was the ground covered with snow to that depth during the whole period you were there?—A. Yes, sir; it might have been more or less.

Q. How cold was it?—A. It was pretty cold. It was the coldest weather I ever

experienced in my life, save upon one occasion, when General Butler inspected a regiment or two of troops early in the war, I think in 1861, when I had an ear frost-bitten.

Q. During that time it was exceedingly difficult for the soldiers to visit Augusta?—A. Yes, sir; there was a certain number allowed to go in a conveyance, and others, who could not get into that conveyance, walked it.

Q. What was their object in visiting Augusta?—A. It was a privilege accorded them for their own pleasure.

Q. A furlough?—A. Yes, sir; for so many hours.

Q. They were at liberty to go, or not, just as they chose?—A. Just as they chose.

Q. You stated that the asylum ground was a swamp covered with water?—A. No, sir. I say that it appeared to be in swampy land, and a portion of the land was overflowed, and they were using a steam-engine to pump the water out.

Q. Were they pumping at the time you were there?—A. Yes. It snowed several days while I was there, and then, for variation, they had what they called a silver sleet, I believe, in which all the limbs of the trees and everything was covered with a coating of ice perfectly transparent. There was a very heavy fall of snow, and the ground was covered to a great deapth; more snow than we see in this latitude in twenty years.

Q. Do you know, of your personal knowledge, the purpose for which this property was used prior to its occupation as an asylum?—A. I simply know that there was a spring there, and that it was reported as having been a watering place. The water was said to contain some medicinal qualities.

Q. Did that spring cause the swamp you referred to?—A. That spring, I think, was the cause of the overflowing at the time.

Q, Was it a healthy locality at the time you were there?—A. I should think it was a healthy place in the winter time. I cannot speak of the summer, as I never was there in the summer.

Q. What was the percentage on the sick-roll?—A. I cannot tell without looking at the morning reports.

Q. What was the general condition of the inmates?—A. It was very good.

By Mr. FARNSWORTH:

Q. State whether, in consequence of the depth of the snow and of the inclemency of the winter there, it does not make it more like a prison than like a hospital?—A. It seemed so to me. I was very thankful when I got away; and some of the soldiers whom I brought with me from Newark begged very hard to be taken back; they did not want to stay there.

Q. This was an abandoned watering place?—A. That I do not know except from common report. It had been used, so common report said, for a watering place.

By Mr. BUTLER:

Q. Did you first communicate with General Farnsworth, or General Farnsworth with you?—A. I never had any communication with General Farnsworth until I was summoned. I did not know what I was summoned for.

Q. Have you been engaged in writing a series of articles against me in the Baltimore papers?—A. I have not written any articles against you in the Baltimore papers. I did write a series of articles for publication, as I wrote to you and informed you that I was going to do, but I did not publish them in the Baltimore papers. And now, inasmuch as General Butler has been to members of the committee outside, exhibiting extracts from these letters and trying to influence them, I want all the letters read.

Q. Do you know of your own personal knowledge that General Butler has visited any members of this committee for the purpose of influencing them by extracts?—A. Not from any personal knowledge of my own.

Q. Is that your handwriting? (exhibiting the word "commencement," written in pencil on the back of a paper.)—A. I think not.

Q. Do you swear it is not?—A. It does not look like my writing.

Q. Did you write that?—A. No, sir; I do not think I wrote that.

Q. Will you swear you did not?—A. I will not swear I did, and I will not swear I did not.

Q. You were appointed at the Rochester board at the request of General Martindale?—A. I think I was appointed by General Butler on my request to him for employment. General Martindale may have made a request to the president of the board.

Q. Is this paper your writing?—A. That is my writing. (The writing identified by the witness is an indorsement as follows: "Rochester Branch of the National Asylum for Disabled Volunteer Soldiers, Rochester, New York, September 5, 1868.")

Q. This was the case, was it not, that you went there to take charge of certain disabled soldiers who had been removed?—A. I was directed to proceed to Newark, New Jersey, to take a lot of disabled soldiers from there to Rochester, New York, which I did.

Q. And those others came on, and you took charge of them?—A. Afterward, during the period I was there.

Q. That and transporting soldiers to various asylums, and sending them into the country when they desired to go was your connection with the asylums?—A. Yes, sir.

Q. Have you ever been insane?—A. About as much as you have been, probably. I drink a little whisky, and have been under the influence of liquor.

Q. I ask you the simple question, have you ever been insane?—A. Not much.

By Mr. FARNSWORTH:

Q. You mean to say you have not been?—Yes, sir.

Q. State whether the inmates of the Augusta asylum were, or not, content with the place. What was thought of the place by the inmates of the asylum?

(Objected to by Mr. Butler, and objection sustained.)

Witness was allowed to examine the inside of the paper indorsed "commencement," and, having examined it, he said: I sent that paper to General Butler, but I do not know whether I wrote the word "commencement" on it or not. I sent that paper to him.

By Mr. SLOCUM:

Q. Just as it is in the shape it is now?—A. I cannot say. The printed matter was pasted in. I pasted it in myself.

By Mr. FARNSWORTH:

Q. Do you wish to make any explanation about it as to why you sent it?—A. No explanation at all. I simply thought that General Butler might be pleased to see this thing, and to put it in the scrap-book.

HENRY A. FERNALD, sworn and examined.

By Mr. FARNSWORTH:

Question. State your residence and occupation.—Answer. Milwaukee, Wisconsin; druggist.

Q. Have you been in the employment of the board of managers of the Asylum for Disabled Volunteers?—A. I have, by appointment of the deputy governor.

Q. Where?—A. At Milwaukee, Wisconsin.

Q. What deputy governor appointed you?—A. John Cassell.

Q. When did you receive your appointment?—A. I was there from about December, 1869, to the 1st of September, 1870, I think.

Q. What was your position?—A. Druggist for the asylum, under the surgeon.

Mr. BUTLER. You mean hospital steward?

WITNESS. That is the designation by the officers of the asylum, but I call myself a druggist.

Q. What was your business?—A. Putting up prescriptions, attending to the sick, the immediate superintendence of patients received and patients discharged, taking care of the books, and making the daily, weekly, monthly, and quarterly reports.

Q. Who were the other officers?—A. At the time I entered there were John Cassell as deputy governor, Dr. James H. Thompson as surgeon, and the chaplain's name was Mr. Turner; W. H., I think.

Q. Was there any treasurer there?—A. No, sir; the surgeon performed the duties both of surgeon and treasurer.

Q. Were any of those officers disabled?—A. Of those officers I knew of none disabled, except Dr. Thompson who was disabled with neuralgia, or a similar complaint—some affection of the head.

Q. Incurred in the service?—A. I believe so. I know that frequently he had very sudden attacks.

Q. Was Cassell disabled at all?—A. Not that I am aware of; he always appeared a very hearty, stout, able, man.

Q. Have you resided in Milwaukee since that time?—A. Yes; I have been there twice since.

Q. What other officers of the asylum, either there or at the other asylums, have you known?—A. I have known General Tilton, who was colonel of my regiment in the field. Maine was my native State, but I served in a Massachusetts regiment. He was never disabled that I know of. I also knew General Ingraham, I think; Chaplain Earnshaw, and Major Thomas, of the Dayton asylum. These two last named were in the Dayton asylum. And I also knew the late appointees at Milwaukee; these were General Woolley, who was a very fine man; Dr. Crandall, the treasurer; Dr. Towle, the surgeon, and Colonel Ludwig, the chaplain. He is the only disabled officer that I know of at Milwaukee. I am inclined to think that General Woolley is disabled in some way, but I do not know.

Q. Of all the officers of those asylums whom you have known, how many have been

disabled, to your knowledge?—A. There is first Colonel Ludwig, chaplain of the Milwaukee asylum; the next is Dr. Thompson, of the Milwaukee asylum, and Colonel Brown, of the Dayton asylum. These are all that I know who are disabled. Of course I am not acquainted with all of those officers.

Q. Have you ever been at the Augusta asylum?—A. No, sir.

Q. You know nothing about it of your own knowledge?—A. No, sir; not of my own personal knowledge; I have circumstantial evidence in connection with it.

Q. Of what character?—A. I have evidence communicated to me by persons who are to be relied upon, and who have personal knowledge of the facts.

Q. State from whom you received information.—A. From Private Sidney D. Russell, who used to be sergeant major of the Maine asylum, and from Dr. James H. Thompson, who was recently called to Maine by reason of the illness of his mother, and who, while there, examined the records of Augusta asylum.

Q. Dr. Thompson was the surgeon in charge of the Milwaukee asylum?—A. Yes, sir.

Q. Is he now at Milwaukee?—A. He is now at Milwaukee, in private practice.

Q. Whom is he doing business with?

(Objected to by Mr. Butler, and objection sustained.)

Q. Who is Dr. Wolcott?—A. Dr. E. B. Wolcott is surgeon general of Wisconsin, a member of the board of managers of the National Asylum, and a surgeon in practice in Milwaukee.

Q. At the time that Thompson was surgeon in charge of the hospital at Milwaukee, was Wolcott one of the board of managers?—A. Yes, sir.

Q. Do you know anything about Dr. Thompson being discharged?—A. I do.

Q. Do you know why he was discharged?—A. Not from my personal knowledge.

Mr. BUTLER. He was discharged by resolution of the board.

WITNESS. I only know from General Butler's own writing.

Q. Did you see that?—A. Yes, sir.

Q. Was Cassell there at the time that Thompson was discharged?—A. Yes, sir; and for months afterward.

Q. Was there any difficulty between Cassell and Dr. Thompson?

(Objected to by Mr. Butler, and objection sustained.)

Q. Are you acquainted with the reputation of Colonel Cassell, who was deputy governor there?—A. Yes, sir.

Q. What is his reputation, good or bad?—A. His reputation is very bad, indeed.

By Mr. COBB:

Q. State what you mean by reputation; do you mean what the soldiers said about him?—A. No; I mean what C. West & Co., of Pittsburg, Pennsylvania, say of him; and what they say of him is the result of an investigation of their books when he left their employment two years ago.

Q. You base your opinion upon that?—A. Partly, and from his conduct at Milwaukee.

Q. State to the committee if you are acquainted with his general reputation where he is known among officers with whom he has served, or at the asylum where he has served, or where he has resided.—A. Within the limits of the asylum and the city of Milwaukee it is not favorable to Colonel Cassell. Proceedings of the board of managers in March last, I think, will reveal that.

By Mr. BUTLER:

Q. Were you present at the meeting of the board?—A. No, sir.

By Mr. NEGLEY:

Q. This reputation which you speak of, so unfavorable to Colonel Cassell, was it brought to your attention after he became an officer at the assylum or prior to that time?—A. It was after.

By Mr. FARNSWORTH:

Q. You did not know him before that?—A. No, sir.

By Mr. NEGLEY:

Q. You say that Major Cassell was discharged from the duty to which he was assigned there?—A. I did not say that; I say that he left there.

By Mr. FARNSWORTH:

Q. Do you know anything about the manner in which the assylum is conducted and the supplies purchased? If so, state it.—A. In reference to supplies I know nothing.

Q. Do you know anything as to the manner of conducting the asylum?—A. Yes.

Q. State anything you know about it.—A. I know that at the time Colonel Cassell was there, and during the time I was there, soldiers were brought up many times for being drunk and absent, and were simply told not to do that again. There was a general laxity of discipline. There were three or four months at the time that the men could not get clothing; there was nothing to be had. Colonel Cassell said that he

could not get any; that he had sent his vouchers to General Butler, and in various directions, (I presume he meant to the Quartermaster General's Office, because he told me so himself,) and he could not get supplies of clothing. There was no conveyance between Milwaukee and the asylum, four or five miles, except as he might please to send in a team. The surgeon would often make a request for a disabled man to be allowed to go to town, to look after his pension or something else, and nine times out of ten it would not be granted.

By Mr. BUTLER:

Q. When did you come to this city?—A. About six weeks ago.

Q. When were you summoned?—A. I was summoned by letter on the 17th of January, and by subpœna on the 19th.

Q. Whose letter came to you to summon you here?

(Witness objected, but was directed by the committee to answer the question.)

A. General Farnsworth's.

Q. Had you written him previously?

(Witness again objected, but was directed by the committee to answer the question.)

A. Yes, sir; I wrote to General Farnsworth about it.

Q. Desiring to appear before the committee?—A. No, sir.

Q. Stating facts which you knew or would tell?—A. If I answer that question correctly, it will involve me in a direct negation of the previous one.

Q. Direct negation of what?—A. It will belie me in the previous question, if I answer that one correctly.

Q. You mean to say that, if you answer this question correctly, it will show that you lied in the previous one?—A. Certainly.

By Mr. FARNSWORTH:

Q. Explain what you mean by that; what do you mean by saying to the committee that, if you were to answer that question correctly, it would involve a contradiction of the other?—A. I meant that, if I answered it truly, as General Butler put the question, I would be belying my own words.

Q. What do you mean by that?—A. He asked me whom that letter was from, and I told him General Farnsworth. He asked me if I replied to it, and I told him yes.

Q. He asked you if you wrote to me desiring to come before the committee?—A. Yes.

Q. What do you mean by saying that, if you were to answer that question correctly, it would involve you in a contradiction?—A. Because I had private business here.

Q. State what you wrote to me.

(Objected to by Mr. Butler, unless the writing was produced.)

Q. Did you in your letter to me desire to be brought before the committee?—A. No, sir.

Q. What did you mean by saying that, if you answered that question correctly, it would contradict something else?—A. It does not relate to the subject at all, I think.

Q. What does not relate?—A. My reason for refusing to answer does not relate to the subject before the committee.

Q. You were asked by General Butler if you wrote to me asking to be brought before the committee?—A. Yes.

Q. And in reply to him you said you could not auswer that correctly without involving a contradiction of something else; did you mean that?—A. Certainly I did.

Q. What would it contradict; you did not write to me asking to be brought before this committee?—A. Certainly not. I wrote that I might be a witness and could produce evidence.

Q. That you knew something about it?—A. That I could give names which would furnish evidence.

WASHINGTON, D. C., *January* 26, 1871.

General EDWARD W. HINCKS sworn and examined.

By Mr. BUTLER:

Question. You were in the war as an officer?—Answer. Yes, sir.

Q. Held what position?—A. I entered the service 26th of April, 1861, as second lieutenant United States cavalry. I was mustered into the service April 30 as lieutenant colonel Eighth Massachusetts Volunteers, and as colonel of the same regiment the 16th of May following; as colonel of the Nineteenth Massachusetts Volunteers 3d of August, 1861; brigadier general of volunteers November 29, 1862. These are all the volunteer commissions I held during the war.

Q. You received a commission by brevet?—A. I was brevetted major general the 13th of March, 1865.

Q. After the war were you appointed by the board of managers as acting governor of a national asylum?—A. I was appointed, I think, in July, 1866.

Q. At that time had the board of managers selected any sites for their asylums, to your knowledge?—A. They had not.

Q. State whether an advertisement was made for offer of sites in various papers of the United States.—A. I saw advertisements in the papers.

Q. Some time in the latter part of the summer of 1866, were you directed by me to do anything about the site of the asylum which was afterward located at Augusta; if so, state succinctly what was said and done by you?—A. I should not be able to give the exact dates. I speak from memory. I think in August or July, 1866, I received instructions from General Butler, president of the board of managers, to visit all the places that had been offered in answer to the advertisements, and make investigation as to their desirability or fitness for the purpose offered, ascertain the value or estimated value of the several locations, and make report. I did so. Either while I was making the investigation or immediately afterward I was directed by General Butler to see Mrs. Mickell, who was the reputed owner of an estate which had been offered at Togus Springs, in Maine, which I had previously visited. He directed me to make a more special or minute investigation as to its fitness, and, if it could be purchased at a reasonable sum, to secure the refusal of the property. I saw Mrs. Mickell at the Parker House in Boston. She told me about what the property would be sold for. Her husband was also present. It was arranged that we should go down to Augusta by the boat that evening, so that I could make a more minute investigation of the property. We did so. I obtained what I thought was an agreement she would adhere to for the purchase of the property, though it was not in writing. I think it was at the price of $60,000. I reported to General Butler, who said to me that $50,000 was the maximum amount he would consent to pay for that property. Afterward I revisited the property, together with Governor Smythe, of New Hampshire, and Mr. Gunckel, of Ohio, governor of the board of managers for that asylum. They approved of the purchase of the property, and I renewed negotiations with Mrs. Mickell, and finally induced her to sell the property for $50,000, with the additional agreement, which she insisted upon, that the board would take what personal estate there was upon the property at a fair valuation.

Q. Such as what?—A. It was the product of the farm the season before; and among the rest there was in the vicinity of three hundred tons of hay, one hundred and twenty-five of which was English hay pressed for the market, and one hundred and fifty or seventy-five wild meadow hay; potatoes, probably two or three yoke of oxen, carts, plows, and other agricultural implements, the schedule of which I think was forwarded to the board of managers. I preserved no copy myself. The agreement which was finally consummated between Mrs. Mickell and myself was consummated during the month of October, 1866. Much delay was occasioned by her evident disinclination to part with the property. There was a memorandum of agreement entered into between us which was, as near as I can recollect, that the board of managers would purchase the estate for the sum of $50,000, conditioned upon their furnishing a complete title to the property; and that the State of Maine, by its legislature next to assemble, should cede jurisdiction over it; and with the further stipulation that in case the purchase of the property was not consummated by any fault of the board of managers, we should pay $1,000 per month rent while it was actually occupied, it being considered very desirable at the time to have the place open for the reception of inmates before the setting in of cold weather, and therefore necessary that possession of the property should be secured as tenants if we did not become the purchasers. And if negotiations should fail to be consummated by reason of the jurisdiction not being ceded by the legislature of that State, or any fault not to be charged to the board of managers, we were to pay $500 a month while it was actually occupied; and we further stipulated that if the negotiation was not consummated by any fault of the owners, we shoud have a period of rent of either six months or one year, I am not certain which, without cost; my impression is that it was six months, and to carry us through the winter.

Q. Please describe the property and its value as near as you can.—A. The property was one which belonged to Mrs. Mickell, the title having been invested in her by her first husband, from whom she had been divorced, and married to a second husband, Mr. Beals: the first husband was a large contractor under the Government, as I was informed. It consisted of about a thousand acres of land, or something in excess of a thousand, which was taken at a thousand more or less, located, the center of it, about five miles from the center of the city of Augusta, Maine, and about two and a half miles from the city limits. Just previous to the war, Mr. Beals had erected upon it a hotel as a summer resort. As near as I can judge at the present time, the main building of the hotel was about 60 feet square, and five stories high. It had an L projecting southward 75 feet by 40, four stories high; another L 30 by 45, four stories high, and the third L 20 by 30, perhaps, with various halls for the several flights. I state these dimensions from my general impression, and do not expect to be exact. There was a stable well built, and finished thoroughly inside and out, carpeted and painted, I should say about 80 feet by 45, with a cellar beneath, divided into compartments for keeping stock. There was a bowling-alley occupying the second story of a building about 80

feet long, with sufficient width for two alleys, beneath which were finished rooms used, originally, as servants' rooms. These buildings were all new and were adapted to the accommodation of about four hundred guests, as guests are usually accommodated in hotels. There was besides a farm-house that had previously been a hotel, and stage-house, containing some sixteen rooms, perhaps; a smaller house containing six rooms, and four barns. There was also a mineral spring upon the estate which possessed some chalybeate qualities as well as magnesia, and over it a spring-house. There was also an ice-house. The estate was well fenced, as farms are usually fenced in the eastern country, with post and rail; about three hundred acres of the land was capable of tillage, and when I took possession of the estate it was mostly in grass, the product of the land being, upon the estate, as I have said, about three hundred tons. The balance of the land was as good as the average pasturage in the State of Maine, with the exception of about fifty acres, which was in second-growth wood, as the expression is used.

Q. Had Mr. Beals undertaken to improve the land by setting trees and making walks and paths?—A. Yes; there was a race course laid out upon it, in the center of which trees had been planted in great variety occupying the whole center of the course. And there were regular walks laid out about the hotel to the spring, and down to a point in the center of the estate, which were skirted by trees that had been planted as ornamental trees. There was an orchard of about five acres of young fruit trees, inclosed with a stone fence.

Q. Did you learn in your investigation there what amount had been expended upon the new buildings?—A. I had no authoritative statement of the cost of the buildings, though in the inquiries I made I was informed by intelligent residents of the vicinity, who were employed by Mr. Beals to work upon the buildings, that the cost of the new buildings exceeded $100,000, and that Mr. Beals had expended a vast amount of money in the improvement of the estate, of which this was a part. The place was called "Beals's Folly." He had expended about a quarter of a million upon it; certainly not less than $200,000, and I would not undertake to make the improvements which were there for that amount of money. I will state in reference to that an incident which occurs to me just at this moment. When I appeared before the judiciary committee of the legislature, representing the necessity of obtaining possession of or jurisdiction over the estate, the town of Chelsea, in which the larger part of this property was located, appeared by selectmen and counsel in opposition to the prayer of the petitioners, upon the ground, as they alleged, that it would take $75,000 worth of taxable property out of that town. I remember that Mr. Hale, a present member of the House from that State, and Mr. Fay, a member of the next House, were members of that committee; of which Judge Shepley was chairman.

Q. Did you close the negotiation, and upon what terms?—A. I did, at $50,000 for the estate, and $5,500 for the personal property. The agreement was that we should take it at a fair valuation. I was at that time sinking cellars, putting in heating apparatus into the building, and was employing intelligent farmers in that vicinity. I called upon some of the most intelligent of them to make a fair valuation of this property, except the hay, and I finally agreed to take it at twenty-five per cent. less than their valuation. I fixed the terms of purchase of the hay myself, at one dollar a ton less than the market valuation upon the streets of Augusta at that time.

Q. Why was that $1 deducted?—A. Because it was estimated that it would cost $1 a ton to transport the hay which was upon the premises to Augusta. I could make these terms with the owners, and I made them. They could sell it on the streets of Augusta at $1 more than I gave. I think the price at that time in Augusta was $20. In two weeks it was $25, and so continued to the end of the season; and I could have sold the hay at twenty-five per cent. advance as a private speculation if I had been inclined to do so.

Q. I see it stated in the newspapers that General Farnsworth will prove before this committee that of the $50,000 paid for the purchase for this estate, only $30,000 was ever received by the owner of the property. I wish to ask you if any agreement, expressed or implied, existed on your part for any other price than the $50,000 named?—A. Never. It was the lowest possible price I could induce the owners to part with the property for. It was only by repeated assertions that I would have no dealings with any other than the actual owners of the estate, that I obtained it at that price. They were desirous of dealing through some third party. I do not know who he was; but I repeatedly told them that if they wished to negotiate through some other party, I would consider the negotiations broken off; and I finally induced Mrs. Mickell to come to the terms I offered.

Q. Will you state whether there were any incumbrances upon the place in the shape of judgments or mortgages?—A. There were.

Q. What arrangement was made as to the title?—A. The arrangements were that the negotiation should fail, unless a complete title to the property should be presented to the acceptance of the counsel of the board of managers, Mr. Baker.

Q. Who is Mr. Baker?—A. He was an attorney-at-law living at Gardner or Hallowell, Maine.

Q. About how far from the asylum?—A. About five miles.

Q. Do you know whether he made that certificate of title?—A. I do not.

Q. Did you, after you made the negotiations, take possession of this estate, as governor of it, and proceed to make such changes as were necessary to adapt it to the uses to which it was intended?—A. I did.

Q. Was that done under your own supervision and in your own way?—A. Under my own supervision; I will state that I attempted to make contracts for the necessary alterations and repairs, but I could find no parties who were willing to make the contract and give bond for the completion within the given time, and I thereupon undertook to do it myself by hiring day labor, which I did without difficulty from the residents in the vicinity, and had the whole work done under my own supervision. I attended to it day and night until it was completed and in running order.

Q. Did you, soon after you began these alterations, commence to receive soldiers there?—A. I did on the 10th of November.

Q. How long did you remain there as governor of the asylum?—A. Until the 6th of March, 1867.

Q. Why did you leave then?—A. I had previously resigned my position and asked to be relieved from the care of the institution for the purpose of joining my command in the Army, to which I had been appointed in the re-organization of the Army.

Q. What was your position?—A. Lieutenant colonel.

Q. When did you leave there?—A. The 5th or 6th of March, 1867.

Q. Where was your command at the time you left?—A. In Washington.

Q. Did you come here directly?—A. I came directly here.

Q. When you got here, did you see any one connected with this purchase?—A. I came here and stopped at the National Hotel. Mr. Mickell, the husband of the lady who owned the property, called upon me the evening I arrived, or the morning following—March 8, 1867.

Q. Do you know whether I was in Washington at that time?—A. You were stopping at the Kirkwood House.

Q. For what purpose did Mr. Mickell call to see you?—A. I could not state for what purpose. His card was sent to my room, and on my invitation he came up.

Q. Was Mrs. Mickell with him?—A. She was not then.

Q. Did you see Mrs. Mickell?—A. Not at that time.

Q. How soon after?—A. If he called in the morning, it was that day; if in the evening, it was the day following; it was within twenty-four hours. Among other things he asked me to go with him to General Butler's, or to go with Mrs. Mickell to General Butler's and to obtain a payment for this property which had been purchased in Maine.

Q. Did you do so?—A. I did within a short time, I think—the morning following, probably—the 8th or 9th of March, 1867; I went with her and saw General Butler at the Kirkwood House.

Q. Did you leave her there, or did you remain with her?—A. My impression is that I escorted her back to the Metropolitan Hotel, where she was stopping.

Q. Did you learn from her whether she obtained payment for any portion of the sum?—A. I know a check was passed while I was there, and she stated to me that she obtained $40,000.

Q. Did you then go to your command?—A. I did.

Q. Have you seen Mrs. Mickell since?—A. I have not seen her since that occasion in Washington. I may have seen her after that transaction.

Q. How was that location at Togus' Springs as to health?—A. It was considered very healthy. I made many inquiries of practicing physicians, with whom I consulted in Augusta in regard to that point, as I did of the other places I went to investigate.

Q. Was that one of the places you were ordered to investigate?—A. It was. This was considered a very healthy location, and my own opinion confirmed that report when I came to reside there.

By Mr. FARNSWORTH:

Q. When did you first visit that estate?—A. I think in July, 1866. It was either in July or August.

Q. Was the hotel then open?—A. It was not.

Q. Had it been closed all that summer?—A. It had been all that summer.

Q. How long since it had been opened as a hotel?—A. My impression is they had boarders the year before, but not a large number.

Q. It never paid?—A. I think not.

Q. It was a failure as a hotel enterprise?—A. Yes.

Q. The buildings were of wood and such as are usually constructed for summer watering-places?—A. No, sir; it was built far superior to any watering-places that were advertised which I visited.

Q. What were the walls?—A. It was a heavy frame building. The walls were boarded and plastered on the inside, and then lathed and plastered over that, and clapboarded on the outside. The building was furnished throughout with large win-

dows, plate glass, and covered with blinds. It had a cupola upon the top and a great many ornamental trimmings.

Q. Do you know whether there was an insurance upon it while you were there?—A. There was a condition in the articles of agreement that the owners should keep the buildings insured to the amount of $25,000 until the negotiations were consummated.

Q. Were they kept insured after you took possession?—A. I never effected any insurance upon them myself.

Q. When did you consider the bargain consummated; was it before you took possession?—A. I considered the bargain consummated when the cession of jurisdiction was made by the legislature. So far as the managers were concerned, they were bound to take the property or pay a thousand dollars a month rent for twelve months upon the owner furnishing a good title.

Q. Farming lands are comparatively cheap in Maine, are they not?—A. Yes, sir.

Q. You were there during the winter of 1867?—A. Yes; until the 6th of March.

Q. Did you find it a comfortable place to live?—A. I enjoyed myself there very much; Maine is my native State, and I find it a comfortable State to live in.

Q. There are pretty deep snows there?—A. Very deep that winter—so much so that I found it difficult to drive to town. There were four feet of snow in the highways that winter—a very unusual circumstance.

Q. It was very difficult for the soldiers to get out of the building?—A. It was, and I congratulate myself on that fact while I was there, because they were inclined whenever they went to town to get drunk.

Q. Still the asylum was not intended as a prison?—A. No, sir. I furnished them with every means of occupation, recreation, and enjoyment at home, but I found an inclination on the part of most of the men who came there when they could come in town to get drunk.

Q. Can you tell the committee the general character of the soldiers who were the inmates of that asylum?—A. I should say it was far below the average character of soldiers in the Army.

Q. Can you state to the committee what percentage of these were American-born and what percentage foreign-born?—A. I would state that of those we had the winter I was there the larger portion were natives of the State of Maine. There was not a large foreign element there. Shortly after I left I was informed that a large number came from Philadelphia; these I know nothing of.

Q. Mrs. Mickell is residing where?—A. My impression is in New York.

Q. You have had no further connection with the asylums?—A. None whatever.

Q. Can you state to the committee how much you expended in fitting up the property while you were there?—A. I cannot; my impression is not far from $12,000.

Q. How was the money furnished you—in what manner or shape?—A. I think the first money I received from General Butler was on a draft made by myself upon him for the sum of $5,000, to pay small bills. I paid these bills, taking vouchers in triplicate and sending the duplicate vouchers to General Butler, president of the board of managers. Then perhaps the next draft I made upon him was for $4,800 in part payment for the personal property. Not having sufficient funds on hand for the whole, I drew upon him for that amount. I think the next was a draft upon him for the payment of a bill for plumbing furnaces and things of that sort; my impression is for the sum of $6,000.

Q. You received all your remittances by drafts upon him in that way?—A. I remember, in the case of the plumbing, that I sent him the vouchers and received a draft in return. I think that is the only bill that was paid directly by General Butler. Generally, I drew upon him in gross, taking vouchers in triplicate, as I have said, retaining the triplicate copy for the records of the institution, and furnishing General Butler, president of the board of managers, with duplicates. I think I drew something like $20,000 from him in this way. I do not undertake to state that as the correct amount; but it approximates to it.

Q. Have you never been there since the property was burned?—A. I never was.

Q. You do not know how it has been built up?—A. I do not.

Q. Did you send your drafts directly to General Butler or to the officers of the board?—A. I sent them directly to him. I usually drew at six days' sight, notifying him of the fact that I had drawn upon him, and I usually received the reply that an agent of his, by the name of Field, in Lowell, had been instructed to place that amount to my credit. That was the usual course; there may have been exceptions.

Q. Who were the other officers that were in charge of the asylum at Augusta during the time you were there?—A. There was a young man, by the name of Nathan Cutler, who I employed as secretary, specially in charge of the records of the institution; a sergeant, by the name of Bowman B. Breed; and my brother, whom I employed to take charge of the stock and farm, he being a farmer by occupation.

By Mr. BUTLER:

Q. Was Nathan Cutler a disabled soldier?—A. He was. Governor Samuel Cony, of

Maine, came to me and stated that he was a young man, a major of a Maine regiment, who had been severely wounded, and had suffered for a long while in one of the rebel prisons, rendering him very feeble in health. I asked him to bring the young man to me at Augusta. He did so. He made, at the time, some objection to taking the position, on the ground that his health was so poor he did not feel able to discharge his duties. It was evident that he was in very poor health. My brother was shot through the lungs while in the Army, his right shoulder-blade injured so as to render his right arm useless. Still, being an energetic man, accustomed to farming, I considered him worth the $800 a year, which I paid him to take charge of the operations of the farm. I desired him to be there to assist me.

Q. State whether you yourself have been disabled?—A. I consider myself a healthy man. It is well known that I have been severely wounded—I suppose as thoroughly wounded as any man in America.

Q. State in what way.—A. I was shot through the thigh on the retreat of McClellan's army to the James River, while leading my brigade against a corps commanded, as I afterward learned, by Richard Anderson, a rebel general. Both bones of my right fore-arm were fractured in the battle of Antietam while in command of my brigade, shortening my arm a little and leaving my right hand in a condition that until now I have never been a moment free from pain. In the same action a bullet struck me in my right vest pocket, passed through my body anterior to the spine, opening the intestines and knocking off the lateral process from the left side of the spine, exposing the spinal cord and lodging in my belt. I passed whatever I ate for weeks through that wound, having no natural passage. I am unable to ride on horseback or to endure any severe fatigue, or any strain upon the spinal column.

Q. You have since been retired from the Army on account of these wounds?—A. I have. I received other injuries, but these are the principal ones. My general health at the present time when not exposed to fatigue is very excellent; but I suffer from neuralgia in the back at all times; I have never been free from it.

Mr. Butler laid before the committee the following papers:

No.—. $9,000. WASHINGTON, *March* 20, 1868.

At sight pay to the order of Mrs. J. A. Mickell, nine thousand dollars, value received, and charge same to account of National Asylum.

[STAMP.] BENJ. F. BUTLER.

To D. C. G. FIELD, Esq.,
Lowell, Mass.

(Indorsed:) Accepted, March 24, 1868. Benjamin F. Butler, draft, $9,000. Paid March 27, 1868.

LOWELL, *March* 24, 1868.

[By telegraph from Washington, March 21.]

To D. C. G. FIELD:

Have drawn on you at sight for nine thousand ($9,000) favor Mrs. Mickell.

BENJ. F. BUTLER.

NEW YORK CITY, *No.* 355 *West Twenty-third Street.*

DEAR SIR: I wrote to you some weeks since in reference to the money you kept back on the purchase of Togus estate for Government, but have as yet received no answer. As all matters have been cleared up, and three years have sped, you will oblige me by sending a check for the balance. You recollect the money, by a letter I hold from you bearing date 1870, was to be paid over one year from that time. Hoping this will meet your approbation, and I shall hear early from you,

Respectfully,

MRS. J. S. MICKELL.

General BUTLER.

BAY VIEW, *August* 24, 1870.

Indorsement on Mrs. J. S. Mickell's letter dated New York, August 17, 1870, *asking for the balance of purchase-money for Togus*:

Respectfully referred to Colonel Nathan Cutler. May I ask you to ascertain whether, in fact, all the doubts on the title of Mrs. Mickell are removed? There were some pieces of land that I understood could not well be removed, and had not been removed. You would know more about it than anybody else except, perhaps, Mr. Baker. Please do me the favor to inform me on this subject.

BENJ. F. BUTLER.

LOWELL, *September* 29, 1870.

MADAM: Immediately on the receipt of your previous letter I referred it to Colonel Nathan Cutler, asking him to have the records searched, to see if everything was all right in the title of the Togus property. He has not reported to me since that time, and therefore I have not been able to answer you. While I regret the delay, I do not think I am to blame for not answering you before.

Yours truly,

BENJ. F. BUTLER.

Mrs. J. S. MICKELL,
355 West Twenty-third Street, New York.

WASHINGTON, D. C., *February* 3, 1871.

CHARLES A. RAYMOND sworn and examined.

By Mr. FARNSWORTH:

Question. State your residence and occupation?—Answer. I reside near Hampton, Virginia. I have been collector of internal revenue, and am now acting, at the request of the board of managers, as manager of the asylum.

Q. How long have you resided near Fortress Monroe?—A. Thirteen years.

Q. What was your occupation immediately preceding the war?—A. I was president of the Chesapeake female college there.

Q. Is that the property now occupied as an asylum?—A. It is.

Q. Did you own any interest in that college?—A. I was one of the original purchasers of it in 1859.

Q. What interest did you own?—A. One-eighth.

Q. How many persons were owning it at the breaking out of the war?—A. Eight.

Q. Who were the others?—A. Mr. Hume, of Portsmouth, Virginia; Mr. Armestead, of Portsmouth, Virginia; Morris & Gwathney, of Portsmouth, Virginia; William J. Wright, of Nansemond County, Virginia; Mr. Dennis, of Norfolk County, Virginia; Mr. Cox, of Norfolk County, Virginia, and Mr. Saulsbury, of Norfolk.

Q. Were you all equal owners?—A. Equal owners of one-eighth.

Q. You were president of the college?—A. During its whole existence.

Q. Had you a clear title to the property?—A. No, sir; the title was in the court of chancery.

Q. What do you mean by that?—A. The property was sold under a deed of trust, or foreclosure of mortgage, and instead of paying the money to the commissioners who sold the property, it was paid into court in order that it might be paid out under a decree of the court.

Q. When was that?—A. In 1859, after we purchased it. We purchased it at a commissioner's sale, under a deed of trust. The title we never did receive. When we came forward to pay for the property and to receive our title, the commissioners refused to receive the money and to pay the various liens upon the property; and it was thrown into chancery in order that, by decree of the court, the various creditors might be paid, and we might get a clear title through the court.

Q. Did you ever get a clear title?—A. No, sir; the war broke out within two years.

Q. How much were you to pay for the property?—A. It was a cash sale. We were to pay $33,400.

Q. How much did you pay?—A. Our attorney had actually paid about $22,000.

Q. How long did you occupy the property?—A. From 1859 to the beginning of the war. The payment was not completed when the war broke out. There had been an order of the court issued that, on payment of the purchase money, the title should issue from the court. We were paying off the purchase money when the attack on Fort Sumter stopped all operations.

Q. What was done with the property after the war broke out?—A. It was taken by the Government as a hospital, in September or October, 1861.

Q. Did you remain there after the war commenced?—A. I left there immediately after the first Bull Run battle, about the 20th of July, 1861, and returned again in July, 1864.

Q. Meanwhile the Government was in possession of the property?—A. It was in possession of it until June, 1869, I think.

Q. The Government had been in continuous possession up to that time?—A. Yes, sir; the Government had taken it for a hospital.

Q. Had the Government erected any buildings on the property?—A. Some wooden barracks—temporary buildings.

Q. Did the Government pay anything for the use of the property?—A. Never a cent, to my knowledge.

Q. How did it leave the property?—A. In rather a dilapidated condition.

Q. Did it not repair and fix it up?—A. No substantial repairs—rather superficial repairs, cleaning, whitewashing, and painting. It did not suffer very much from the use.

Q. What became of the buildings which the Government put up on the property?—

A. They were taken down and turned over, some of them to the Freedmen's Bureau, and some to the quartermaster of the post.

Q. When did you sell this property?—A. Four of the owners sold in the latter part of December, 1864.

Q. Which four?—A. Those living in Norfolk and Portsmouth; Mr. Cox, Mr. Saulsbury, Mr. Dennis, and myself.

Q. Did you make the bargain?—A. With them I did. I stipulated to convey my interest afterward.

Q. To whom?—A. To General Butler.

Q. Did you make the bargain for yourself and in behalf of the other three?—A. I made the bargain for General Butler. I was then on duty there.

Q. On what duty?—A. I was acting as superintendent of education, and as chaplain of the Army. General Butler detailed me for that purpose, to organize and conduct a system of free schools for white children. We had about two thousand children there, and I superintended them.

Q. What did those parties receive for their interest?—A. Twelve thousand dollars at that time.

Q. Did each receive $3,000?—A. No sir. They were paid *pro rata* according to the amount of the purchase money which each had paid, or of the liens they had on the property. Mr. Saulsbury received, I think, about $1,800; Mr. Dennis received about $2,000 or $2,200, and Mr. Cox received about $6,500, which exhausted the $12,000 up to within about $60.

Q. Where is Mr. Cox?—A. At his residence near Portsmouth.

Q. Why did he receive more than the others?—A. He had paid in more. The arrangement was that they were to receive in proportion to what they paid, and to their claims against the property.

Q. It was a half interest in the property that these four gentlemen had?—A. The three and mine would have made the half interest in the property.

Q. For that you received $12,000?—A. For the three shares $12,000.

Q. And your share?—A. That was not arranged at that time. It was not settled.

Q. How much did you own in it?—A. I owned what the others did; but all had not paid in an equal amount.

Q. How much of the $12,000 were you entitled to; as much as Mr. Cox?—A. No, sir; I had not paid in as much as Mr. Cox. I think I had paid in about $2,000 in money, and there was about $3,000 due me.

Q. Do you not receive anything for your interest?—A. I did not sell at that time.

Q. Did not General Butler buy the interest of four of the stockholders at that time?—A. No, sir; I think only of three. My own share was never mentioned between us in any way.

Q. Have you ever sold your share since?—A. No, sir; it has been extinguished.

Q. Have you ever received anything for it?—A. No, sir.

Q. How has it been extinguished?—A. We were all on a joint and several bond for $32,000, the amount of the original purchase money, of which $20,000 had been paid, and the interest on the remainder had been accumulating during the war. As an inducement to them to sell out I offered to let them take my share. So I never have received really anything for my share.

Q. And you have no bargain to receive anything from any source?—A. No, sir; not from any source.

Q. Over $20,000 had been paid on the original purchase money?—A. Yes; there was a balance of $12,000 due which, with the ten years' accumulated interest, made $17,000 or $18,000 due on the bond.

Q. You made this trade with General Butler in 1864.—A. Only for those three shares.

Q. Did you agree with these three men to give up your share?—A. No, sir; there was no agreement.

Q. What was done with the interest of the other four parties?—A. An agreement was made with them some time in 1869, or in the first part of 1870.

Q. What agreement, and with whom?—A. I do not know. I cannot answer of my own knowledge.

Q. Was their interest purchased?—A. I suppose so. Beyond the spring of 1869 I cannot tell you anything about the property.

Q. Do you know anything of the purchase from the other four stockholders?—A. Nothing except from hearsay.

Q. Have you heard from them?—A. No, sir.

Q. Have you seen any deeds from them?—A. No, sir.

Q. Did you make any bargain with them on the part of General Butler or anybody else?—A. No, sir. I made them a proposition at three several times, but did not complete any bargain with them.

Q. You do not know that they have sold it now?—A. Not of my own knowledge but from hearsay.

Q. You do not know but that they still hold the title?—A. Not of my own knowledge.

Q. Have you no bargain, no contract, written or parol, express or implied, that you shall have any pay for your interest in the property?—A. The thing has been so indefinite that I do not know. The "implied" may cover a good deal of ground. I offered them to say nothing about my own interest if they would dispose of their interest and wind up that bond.

Q. Do you say to the committee that you never have received any consideration for your interest?—A. I do say that.

Q. And you say that your interest in the property was as great as that of the others? A. It was the same as the others.

Q. And that you acted as the agent of General Butler for purchasing from the other three in 1864?—A. I did so by his order.

Q. Order or request; were you under his orders?—A. I was under his orders, and the understanding at that time was that this was not altogether a private matter. The understanding was that the Government wished the property.

Q. Did they make deeds directly to General Butler?—A. They made an assignment of all their right, title, and interest—a quit-claim.

Q. Did you join them?—A. No, sir; they sold individually.

Q. You never conveyed any title, or made any quit-claim or release, or anything of that sort?—A. No, sir.

Q. Were you a party to any suit instituted afterward in reference to the settlement of the title to the property?—A. Not that I know of. My name may have been used. I never was consulted in regard to it.

Q. You never had any process served on you?—A. I think not. I do not recollect that I ever had.

Q. If you were a party to any suit it was without your knowledge?—A. It was without any consultation with me, and I do not know that I was.

Q. How much of this property did the other three parties sell?—A. They sold their interest in the undivided property. There are forty acres in the property.

Q. The same that the military asylum now holds?—A. Yes.

Q. That was the amount of your original purchase?—A. Yes.

Q. Has the asylum purchased any additional ground?—A. Not to my knowledge.

Q. Are you now the superintendent of the asylum?—A. I was requested in August last by the president of the board of managers to aid gentlemen who went down there, and I have aided them to the best of my ability, devoting most of my time since to the asylum.

Q. In what position?—A. simply as a friend of the parties, without any title.

Q. Are there inmates in that asylum now?—A. There are now between forty and fifty inmates. They came a week ago on Sunday night. About the 1st of January I received an appointment making me the acting deputy governor and treasurer.

Q. And you have no knowledge as to how the title of the other four parties to this property was extinguished?—A. I have no actual knowledge. That is, I had nothing to do with it. I never saw a paper or writing on the subject. I have had no communication with them. I had my own business to attend to and made no inquiry. I was glad to have the bond extinguished.

Q. Do you know whether that bond is paid up?—A. I do not know it.

Q. Do you know that it is not?—A. No, sir; I know nothing at all about it.

Q. Your name was not taken from the bond?—A. No, sir.

Q. Did you receive any bond of indemnity?—A. No, sir.

Q. Any writing?—A. No, sir.

Q. Did you take up that bond?—A. I did not. The purchaser of the remaining shares it was supposed would take it up. I know nothing whatever of the title or of the property after this arrangement was made.

Q. Then you abandoned your interest in the property and received no indemnity against the payment of the bond nor any release of any kind?—A. I agreed to say no more about it provided the bond was extinguished.

Q. And you received not one cent?—A. Not one cent in any shape or form.

Q. And do not expect it?—A. I do not expect it. I was glad to get rid of paying the balance due on the bond.

By Mr. BUTLER:

Q. This Chesapeake College was an incorporated institution?—A. Yes.

Q. And the eight partners, as you call them, were stockholders?—A. Yes.

Q. How long before had the building been erected?—A. The building was completed sufficiently for occupancy in November, 1857; but it was not completed until the winter of 1859–'60. The photograph here is a very good photograph of its appearance as it was a year ago. There is, besides, a large cottage house of ten rooms, which I occupy, the building of which cost about $6,000. The other photograph is a good picture of one part of the grounds.

Q. What other buildings were there on the property in 1864 other than the Government buildings?—A. The cottage house of which I speak, a brick building 36 by 48 feet, used as an hospital, the main college edifice, and a cottage of six rooms under the willow tree, and stables and out-houses.

Q. In its original inception it was found to be a losing speculation, and got into the courts from non-payment of its debts?—A. Yes, sir; it turned out so in consequence of the war. It was originally owned by another stock company which failed, and we purchased it at the sale of their effects.

Q. And the question of the lands was being settled in court when the war came on?—A. Yes.

Q. The eight stockholders had interests according to the amounts they had paid in and the debts which they claimed to be due to them from the property?—A. Yes, sir.

Q. You have lived in that cottage house since 1864 without rent?—A. Yes, sir; since October, 1864.

Q. State about what the main building cost originally.—A. I have always been told by the builders that it cost $65,000. I was not there when it was built.

Q. Did you make inquiries of the builder at the time you were thinking of purchasing it?—A. Yes, sir; we made minute inquiries, so far as to get the actual number of brick in the walls of the building.

Q. And in reply to those inquiries, you got the information as to the cost of the building which you have stated?—A. Yes.

Q. Were you present at an appraisement of the building made by the Quartermaster's Department at the time they turned it over?—A. I was not present. I think I was mentioned as one of the board, but I was absent at the time the appraisement was made. I was informed by the board of the result of the appraisement. They appraised the building itself as it then stood at $35,000. That was in June, 1869. They appraised simply that building as it stood.

Q. Did you have any negotiation with General Schofield with reference to the Government purchasing this property as a part of the artillery school at Fortress Monroe?—A. While General Schofield was there he called upon me one day to ascertain from me concerning the title to the property, its condition, &c. As the result of the conversation, he offered to give $8,000 a share for the property, for each of the eight shares, provided the title could be made good to the Department. He said his object was to have it taken as a light artillery school, and that he should consider that a fair valuation of the property.

Q. Did he, as commander of the Department of Virginia at that time, occupy that point?—A. He was occupying it at that time as his headquarters.

Q. Did he pay any rent for it?—A. He never paid any rent for it, to my knowledge.

Q. Do you know of any purchase of land adjoining it, by the Government, for any purpose?—A. Yes; there is a national cemetary within a stone's throw of it, divided from it by a narrow stream of water, 40 or 50 yards wide.

Q. What did the Government pay per acre for that land?—A. I know it only from hearsay. I was told by one of the parties in interest that the Government had paid $1,000 an acre.

Q. Was that land as desirable, or would it sell for as much in the market, as the land on which the asylum is situated?—A. Oh no, sir.

Q. What should you say would be the difference, in market value, of the two lots of land?—A. I received an offer myself, in 1869, for a part of the college land. I was offered by a gentleman from Norfolk, on behalf of himself and ten others, $1,000 a lot, for lots 45 or 50 by 80 feet, to be situated anywhere on that college property, to be selected by himself. They wanted to purchase lots there for summer residences.

Q. Compare the value of the college land and of the land sold to the Government for a national cemetery, and say what would be their relative worth.—A. The college land would be more than double in the market.

Q. How close is it to the normal school erected by the American Baptist Missionary Society?—A. The two buildings are within five hundred yards of each other. The properties adjoin, with the exception of a narrow stream.

Q. Is there at Hampton Creek water for wharfage accommodation on this property?—A. Yes, sir; at the extreme point that you see in the photograph. There was formerly a wharf there.

Q. For the purpose for which it is used, what, in your judgment, would be a fair value for the property?—A. I should not think it had depreciated in value since we owned it, and we always held the property at $100,000.

By Mr. FARNSWORTH:

Q. And yet you were glad to get rid of your interest in it for nothing, for the sake of getting rid of your liability for the balance of a $32,000 bond, $20,000 of which had been paid?—A. I was liable for the whole amount due on the bond. It was a joint and several bond.

Q. And you were glad to give away your interest in a property that you think was worth $100,000?—A. I was willing to do so.

Q. Do you think that that is consistent testimony?—A. I do.

Q. General Butler has testified that, in his opinion, this property was worth $300 an acre, and you swear that you think it worth $1,000.—A. I did not swear any such thing.

Q. Do you think his opinion correct that it was worth $300?—A. I know it is worth more than that.

Q. Did you ever know any considerable amount of property there to be sold for more than that?—A. Yes, sir; this identical piece of property, when it was in a wild state, and before any buildings were put upon it, sold for more than that.

Q. That was when they had wild-cat speculation down there. They expected then to have a watering place there.—A. It was before that time. I was offered, by Colonel Mallory, $1,000 an acre, cash, for the half of that land last year, not including the buildings. So that I think I have reason to say that I know it was worth more.

Q. And yet, even up to 1869, you were glad to get rid of your interest in it?—A. I was glad to get rid of my liability for the balance due on the bond.

Q. And you do not know that you are rid of it now?—A. I have every reason to think that I am.

Q. What have you to show for it?—A. I have nothing to show for it, but I have been told by my attorney, who completed the transaction, that I was clear.

Q. You have no papers to show for it?—A. Not a scrap; only that my attorney told me that the bond was extinguished.

Q. Did it seem to you exactly fair that you should pay one of your colleagues $5,000 or $6,000 for his interest in the property, and that you should give your interest for nothing?—A. No, sir; it was not equitable or right. I never considered that it was fair, but we had got used to losses during the war. There was no such stress in 1864 as there was in 1869, when we made the final trade. That was the time I relinquished my right.

Q. Is not that the very time that you have been swearing the property was worth so much?—A. I did not swear it was worth so much in 1869.

Q. When did you swear that a man offered you $1,000 an acre for a part of it?—A. In 1869.

Q. How many acres?—A. I think about five.

Q. And you think that the whole of it was worth the same rate?—A. No; I do not think that every acre of it would have been.

Q. Yet, at that very time, in 1869, you were anxious to get rid of your property for nothing?—A. I was very anxious.

Q. When you could sell it for $1,000 an acre?—A. A part of it I could sell for $1,000 an acre.

Q. Where have you stayed in Washington, since you have been here under subpœna?—A. At the Ebbett House.

Q. Have you had any conversation with General Butler about this investigation since you came here?—A. Not more than for three minutes.

Q. Do you know that you did have three minutes' conversation about it?—A. Not about the investigation; but only to ask him when we could come before the committee. If you mean to ask whether I spoke to him about the nature of the investigation, I answer never a word.

Q. You were asked, if you occupied a house on the property till 1869 without paying rent?—A. Yes.

Q. You did not get rid of your interest till 1869?—A. No, sir; I have lived there since the war, and have taken general charge of the property.

Q. Without any salary?—A. Certainly, without any salary.

Q. No salary?—A. Not a cent.

Q. You gave away your property and stayed and took care of it without salary?—A. If I had time to explain, I could very easily explain all that.

Mr. FARNSWORTH. I should be very happy to hear the explanation.

Mr. NEGLEY. The committee does not desire to hear it, as not being relevant to the case.

By Mr. NEGLEY:

Q. You say that there was some $17,000 due on the bond, including interest, in 1869. Were there any costs?—A. Not at that time.

A. Were there any other debts against the property which you would be bound to pay?—A. Yes, sir; about $10,000 of personal debts, which would have been made liens against the Government.

Q. And you were the responsible party for all that indebtedness?—A. I was responsible for a considerable part of it. I was one of the responsible parties.

By Mr. BUTLER:

Q. You were bound to pay, if others did not?—A. Yes; we were all wealthy men at

the time the property was purchased, but during the war most of them lost their property.

By Mr. NEGLEY:

Q. And you accepted, as a consideration for your interest, the being relieved from that indebtedness?—A. Yes; I gave my interest to the others; I tried very hard to get them to sell their interest.

By Mr. FARNSWORTH:

Q. You say there were other debts against the property. What debts were they?—A. There were some debts for supplies for the college.

Q. Can you tell how much, and to whom?—A. About $10,000; I do not know that I can tell to whom; we had a steward who made all the purchases. I know that there was $3,000 due to me for my salary.

Q. You gave that up?—A. No; but I might as well. My salary was to have been $3,500 a year.

Q. You do not expect to get what is due to you?—A. No; I have given it up in that sense. There were debts for furniture and for groceries; I do not know the amount.

Q. You, being the president in charge of the college, directed the steward?—A. No, sir; the steward was responsible to the board of trustees.

Q. You do not know how much the college owed?—A. Yes; but I do not know all the parties to whom we were indebted.

Q. Have you no papers to show?—No; I never had; the papers were in the steward's hands, and are still.

Q. Who is the steward?—A. He lives in Portsmouth. He sold out his interest the same as the others did. The floating debt has not been adjusted to this day; a large part of it is held by the parties who owned the property, and they assigned it with their other interest; they assigned all their interest.

THOMAS TABB sworn and examined.

By Mr. FARNSWORTH:

Question. State your age, profession, and residence.—Answer. My age is thirty-five; my profession is that of a lawyer; my residence in Hampton, Virginia.

Q. General Butler has stated that you were the attorney who conducted some suits in relation to property purchased for a soldiers' asylum near Fortress Monroe.—A. I was.

Q. State what the character of the suit was.—A. The property now known as the Soldiers' Asylum there was, prior to the war, called the Chesapeake Female College. It was purchased by a number of gentlemen in the interest of the Baptist denomination. Finding that they could not complete the purchase by reason of want of means, it was conveyed to Messrs. Mallory & Herndon as trustees. In the mean time certain parties had acquired a priority of lien, both by deeds of trust and by judgment, on the property. The property was sold at public auction by Messrs. Mallory & Herndon, the trustees. This was in 1858 or 1859. It was bought by a gentleman named Vaughan, a very zealous member of his church. Vaughan, finding that he could not comply with his purchase, went to Mr. Hume, of Portsmouth, Mr. William J. Wright, a gentleman named Morris, and a genleman named Cox, and induced some of them to take the property off his hands. The property was sold at public auction for $32,400. That was not enough to pay the liens on the property and the creditors of the college. These trustees then filed a bill in the circuit court of the county of Elizabeth City, convening all the creditors before the court in order that they might establish their priority of liens, and that the court might decree the distribution of the purchase money. The purchasers paid some part of the purchase money; not the whole of it, however. When the war came on a large part of the purchase money was still due. They had paid off some of the liens. After the war ended the liens on the property that were due to creditors under the original sale, amounted to between $18,000 and $19,000. In the mean time General Butler had bought out three of those parties, named Cox, Dennis, and Saulsbury, who conveyed to him their interest in the property. for $12,000 in the aggregate. I think the deeds were made to Mr. Raymond, and were subsequently conveyed by him to General Butler, and Dennis, I think, had not paid any of his part of the purchase money. Saulsbury had only paid a portion of his; but Cox had paid nearly all of his. Then it was that my connection with the matter commenced. The old suit was still pending in the court. No deed had been made to the purchasers. I examined the papers and found that General Butler was in this position; that, in my opinion, those parties who had contributed to the purchase money, which had been paid, could subject the interest which he had bought and paid for, to the payment of their proportion of that sum. I thought that his purchase there was in serious jeopardy. It was then essential, I thought, in order to General Butler's protection, that he should get the whole property. The general put the matter in my

hands, and asked me to get the property for him. I opened negotiations with the owners, went up to see them, and told them that I desired to purchase the whole property for General Butler. They wanted to know how much I was authorized to give. I told them I was authorized to give the original purchase money, subtracting from it the amount which General Butler had paid to Dennis, Cox, and Saulsbury—$12,000—not taking into consideration any interest which had accumulated. I had very great difficulty with them. They estimated the value of the property at $75,000 or $80,000, and said they thought they could get that much for it. The persons I speak of were Hume, Morris, Armestead, and Wright.

Q. They were all together?—A. Yes, I had them summoned specially to meet me at Norfolk. My first interview resulted in nothing. I told them that if they put the figures at anything like that, it exceeded my authority, and I broke off all negotiations. A judgment would have issued against these parties for the amount due on the bond, about $19,000, on the expiration of the stay law in Virginia, which was then approaching its end. These parties, without any further communication from me, wrote to me in the course of some weeks, saying that they desired to open negotiations again. I went to see them, and succeeded in purchasing the property from them. They conveyed their interest to General Butler, giving a general warranty deed. That was in the fall of 1869. The matter was still pending in the court. General Butler furnished me with the means, and I paid off the liens as reported by the commissioner. The record had been destroyed during the war. The suit was revived, and General Butler was made a party to it, inasmuch as he had purchased out the interest of Dennis, Cox, and Saulsbury in 1865. I paid off the liens, and reported the fact to the court. I filed General Butler's answer, stating that he had paid off these liens, and desiring to be substituted in place of the purchasers. Mr. Raymond, however, came in. Whether he was one of the original purchasers or not I cannot say, but he was connected with Cox, Saulsbury, and the others. His interest I did not buy. The record did not show that he had any interest in the property, although I knew of my own knowledge that he was connected with the others. These parties claimed that Mr. Raymond had transferred his interest to them: and inasmuch as I was perfectly satisfied with their deed warranteeing the property, I was willing to take it on those terms. I applied to the court and asked a dismissal of the suit, and that a deed be made to General Butler. Mr. Mallory was then the surviving trustee, and Mr. Mallory and myself were ordered as special commissioners of the court to execute the deed.

By Mr. BUTLER:

Q. How much did you pay off for me on those liens?—A. That property has cost you, I think, about $40,000, including the interest.

By Mr. FARNSWORTH:

Q. How much has he actually paid; twelve thousand dollars in the first place?—A. Yes.

Q. And how much through you?—A. About $23,000.

Q. Was that paid into court?—A. I paid the liens as reported by the commissioner of the court, and the balance of the money after the liens were paid I paid over to these parties.

Q. General Butler stated in his testimony that he paid about $20,000 to you.—A. More than that. General Butler sent me a draft for $18,000, and I had some matters on hand for him on which I realized $3,000 or $4,000 more.

Q. On what bank was that draft?—A. He authorized me to draw on a gentleman in Lowell, Massachusetts, for $18,000.

Q. What was the name of that gentleman?—A. I think his name was Kearney.

Q. Can you give the committee the precise date of that?—A. No, sir; I cannot. Subtracting $12,000 from $32,400, I was to pay them the balance, less the amount necessary to pay off the liens. It is proper to state that the property cost more than $32,400, because I paid the insurance on the property, which amounted, I think, to some $500 or $600; and I expect, of course, to get a reasonable fee for the services I have rendered in the matter.

Q. Did you receive any more than the $18,000 draft?—A. All the money he ever gave me was $18,000. The balance of the amount I received from *choses* of General Butler's which I had in my hands for collection—about $3,400.

Q. Then it was $18,000 and $3,400?—A. Yes.

Q. And that is the amount which has been paid?—A. Yes; and the $12,000 and the insurance on the property.

Q. And the bargain was consummated in the fall of 1869, you think?—A. I think it was.

By Mr. BUTLER:

C. How long have you lived in Hampton, Virginia?—A. I was born there and have lived there all my life, except during the war.

Q. Your house was how far from this property?—A. I do not think I resided more than three-quarters of a mile from it.

Q. Were you in the confederate army during the war?—A. Yes, sir; I was.

Q. And are now a practicing lawyer in Hampton?—A. Yes, sir.

Q. Please tell me if you know of the sale of land to the Government, since 1869, adjoining this property?—A. Yes, sir; I do. I am not certain, however, whether the sale took place since 1869 or not. I presume you have reference to the national cemetery; that property is between my place and this national asylum; it was used for a national cemetery, and the owner of course claimed compensation; he claimed it, under the law, through the district court of the United States at Norfolk—Judge Underwood's court. The price of that property was fixed, by assessors appointed by the court, at $1,000 an acre, and he received $5,000 for those five acres.

By Mr. FARNSWORTH:

Q. It was already used for a national cemetery—the graves already there?—A. They were there at the time he sold the property.

By Mr. BUTLER:

Q. Suppose both pieces of land had been in open market, what was the relative value of these five acres compared with the asylum?—A. I can only speak relatively. The asylum property in 1852, that is, the land before the building was put upon it, sold for $10,000. The whole farm upon which this national cemetery is now located sold, at a date subsequent to that, or very close to it—a farm of one hundred and fifty or sixty acres—for, I think, $11,000.

Q. Compared with the five acres, or the whole farm, what would you say was the relative value of the two places?—A. There is no comparison between the two locations; in point of soil they are about the same; but the location upon which the asylum stands is infinitely superior; one acre of the asylum property would have sold for five times that of the cemetery.

Q. You have known this property ever since the buildings were erected?—A. Yes, sir.

Q. What, in your judgment, was its fair marketable value at any time within the last year for a clear title?—A. I am no judge of that matter; I can only say that at the time I was negotiating the purchase of the property I asked the opinion of mechanics about it. A gentleman in whom I had great confidence told me that the buildings could not be put there for less than $50,000. I am told there are a million brick in the buildings; I do not pretend to speak accurately. I know this—that every one who had anything to do with this property before it was sold sunk a great deal of money in it.

Q. The next adjoining farm is the Segar farm?—A. That lies immediately contiguous to this place.

Q. What is that held for? Are you one of the commissioners appointed to sell that place?—A. I am.

Q. Was any portion of that place offered to the Government?—A. Yes, sir; the whole of it has been offered to the Government.

Q. Did the Government enter into a contract to take it, subject to the ratification of Congress?—A. Yes.

Q. For how much an acre?—A. I think for $200.

Q. That is, for the four hundred acres?—A. Yes, substantially; probably three hundred and ninety-five, or something like that.

By Mr. FARNSWORTH:

Q. Congress did not ratify it?—A. No, sir.

By Mr. BUTLER:

Q. Has it ever been before Congress?—A. Mr. Segar gave me a paper in which there was a recommendation for reference of the matter by the Secretary of War to Congress; this was twelve or eighteen months ago.

Q. Is the location of the asylum property desirable?—A. Yes, sir; I should think so; very.

Q. Was the question of title submitted to you?—A. Yes, that question was submitted to me.

Q. State whether, from your knowledge in regard to it, the asylum has a good title to the property?—A. I think the title is perfect; the only question is just this: a portion of the property upon which the asylum stands belonged to a gentleman from Philadelphia, who sold it to Mr. Segar. There was a lien upon the property for a certain amount, which he would not release. The owner of the asylum property did not want the whole place upon which this lien rested, and they had to take the whole of that lien in order to get the amount they wanted. There is now about $1,500 due upon that lien, which is upon a part of this property; but, at the same time, it is a lien upon three times its amount in property contiguous to it. So that I gave my opinion that

the title was perfect, for the reason that if an attempt were made to enforce the lien we would have no difficulty in selling land enough, outside of this, to pay it.

By Mr. FARNSWORTH:

Q. Was the unoccupied land worth any more at the time its purchase was made than it was when the farm was sold in 1852?—A. There is no standard of comparison. The value of land depends entirely upon its location.

Q. For farming purposes is it particularly valuable?—A. No, sir; it was never particularly valuable for farming purposes; they were merely fancy prices.

Q. The town does not grow very much?—A. Yes, there is more business done there now than there was before the war.

Q. More than there was at the close of the war?—A. The town was entirely destroyed during the war.

By Mr. BUTLER:

Q. Did Judge Bond go down and consult you about the title of this property?—A. Yes, sir; I regard this title as good as it can be.

By Mr. FARNSWORTH:

Q. Judge Bond was referred to you by General Butler, was he not?—A. I do not know by whom he was referred.

Q. He knew that you had been an attorney in regard to it?—A. I do not know. He came into my office one day, representing himself as a lawyer from Baltimore city, who had come to investigate that property, and asked me if I could give him any information in regard to it. I took him up to the clerk's office; he made what examination he desired, and was perfectly satisfied with the title.

"HAMPTON, VIRGINIA, *February* 6, 1871.

"GENERAL: I have the honor to inclose to you the exact date of my transactions as attorney for General Benjamin F. Butler in the matter of the Chesapeake Female College, and now the Military Asylum, near this place. I informed the committee I could not speak with minute accuracy as to dates and amounts, unless I made reference to my books and the records of the court.

"The date of the contract purchasing the property from Messrs. Hume, Morriss, Armistead, and Wright was the 9th June, 1869. General Butler had previously, viz, 14th January, 1865, purchased the interest of Messrs. Cox, Salisbury, and Dennis in the property. By the agreement made the 9th June, 1869, General Butler was to give $34,200, less $12,000, which he had paid to Cox, Salisbury, and Dennis. By this contract he was to pay off the liens before the expiration of the stay law in Virginia; and the balance of the $22,200, after the payment of the liens, he was to pay to Messrs. Hume, Morriss, Armistead, and Wright within four months; which was afterward modified to four months from the 15th September, 1869; that being the first term of our circuit court, at which the whole matter could be ratified by decree of court in the suit then pending in regard to the property, and which was accordingly done on the 27th October, 1869, being a special term of our circuit court, there having been no court at the regular time, viz, 15th September.

"I also inclose a statement of the liens and disbursements. You will see they amount to the sum of $22,662 43, some three months' interest having accrued upon them. By the terms of the contract of the 9th June the interest on the liens from that date was to be paid by General Butler. Of this sum of $22,662 43, it is proper to state that $18,821 63 was paid to discharge the liens, $468 70 for insurance; $3,340 was paid to Messrs. Hume, Morriss, Armistead, and Wright, being the balance due to them after the satisfaction of the liens, as of the 9th June, 1869; and the balance, $32 10, for stamps, recording, &c.

"On or about the 20th September, 1869, I drew, in obedience to instructions from General Butler, upon a party in Lowell, for $18,000. I cannot ascertain the precise date, nor the name of the party, but I am very positive his name was Carney, and I find the amount of the draft placed to my credit in the Citizens' Bank, Norfolk, as shown by my bank-book, on the 29th September, 1869. The remainder of the money was realized from the collections made upon bonds due to General Butler from parties in this locality.

"I stated in my examination that the property cost General Butler about $40,000. My meaning was, that it stood him about that sum at the time he parted with it.

"January 14, 1865. Paid Cox, Salisbury & Dennis	$12,000	00
Interest on $12,000 for five years and six months	3,930	00
Amount paid by me, as per statement rendered	22,662	43
Interest on $22,662 43, say for six months	379	87
My fee	750	00
	$39,752	20

"As I gave in my testimony in some degree of haste, being desirous to leave Washington, and not having had an opportunity to read it over, it is possible that there may be some errors; if so, and any member of your committee, or General Farnsworth, or General Butler, should desire any explanation of any statement in it, I would be glad to give it.

"I am, general, very respectfully, your obedient servant,

"THOMAS TABB.

"General JAMES S. NEGLEY,
"Chairman Sub-Committee of Military Affairs."

FISHER A. HILDRETH sworn and examined.

By Mr. FARNSWORTH:

Question. State your age, residence, and occupation.—Answer. Fifty-two; farming is my business; I reside at Lowell, Massachusetts.

Q. You have been spending the winter in Washington mostly?—A. A part of it.

Q. You are a brother-in-law of General Butler?—A. I am; he married my sister.

Q. Are you acquainted with the property at Fortress Monroe used for a soldiers' asylum?—A. I have seen it.

Q. You know that it is now being occupied for a soldiers' asylum?—A. I suppose so. I have not been there since during the war.

Q. Were you there on duty during the war.—A. I was not; I went down there two or three times on matters of business. I had some affairs at home of General Butler's.

Q. Did you ever own this property?—A. I held it. The legal title was in me.

Q. When did you receive the title?—A. Some time during the past summer, I think.

Q. Can you give the date when you received the deed precisely?—A. I cannot.

Q. Did you deed it to the board of managers of the asylum?—A. Yes, sir.

Q. Do you know when you deeded it?—A. I cannot give the date of the deed.

Q. How long after you received the deed yourself before you deeded it over to them?—A. My impression would be, though I cannot undertake to give dates, that I received the deed during the summer, and deeded it to them in the fall, or very early in the winter.

Q. Can you by any means refresh your recollection so as to be able to state what month you received the deed?—A. Not unless I could see the deed.

Q. Where were you when you received it?—A. In Lowell.

Q. Was Congress in session?—A. I cannot state positively that it was.

Q. Was General Butler at home at the time you received it?—A. He was. I think I received the deed from him at Lowell. That is my present recollection. I know I gave the deed at Lowell.

Q. Where were you when you gave the deed to the board of managers?—A. In General Butler's office in Lowell, I gave the deed to him.

Q. That is, you handed it to him: it was not made out in his name?—A. I handed it to him; it was made to the asylum; I gave the paper into his custody.

Q. Was that before the commencement of this session of Congress?—A. Yes, sir.

Q. Can you tell how long before?

(General Butler here produced the deed referred to before the committee, bearing date October 17, 1870.)

Q. Did you receive the consideration of that deed—$50,000?—A. No, sir.

Q. You have never received it?—No, sir; I never received $50,000.

Q. Did you receive anything?—A. Yes, sir.

Q. How much did you receive for the deed?—A. I advanced to General Butler.

Q. How much did you receive?—A. I received what I had advanced. I think I had advanced altogether about $12,000, which General Butler repaid to me.

Q. The consideration for the place went to him then, and he paid you?—A. Yes, sir; I had made other advances to General Butler.

Q. But you received $12,000 at the time you handed him the deed?—A. No, I believe I had received a little of it back from General Butler before that time; at any rate, it was about the time. I received it at two or three different times. I received his check for $5,000 or $6,000. I received $2,500 in money, and between $5,000 and $6,000 in money.

Q. Did you draw the money on that check?—A. I did.

Q. That was at the time you gave the deed?—A. No, sir; it was after I gave the deed.

Q. Do you say you advanced $12,000 at one time?—A. No, sir; not all at one time.

Q. Between what times?—A. Between May, when he wrote me from here, and the time, or immediately after the time, of my giving the deed. I had advanced it before and received it between these times.

Q. Received the letter from here what about?—A. He wished to pledge his Hampton property to me for advances.

By General BUTLER:

Q. Have you that letter?—A. I have.
Q. Please produce it?

Witness laid before the committee the following letter:

"WASHINGTON, *May* 10, 1870.

"MY DEAR HILDRETH: I have occasion to borrow some money of you for which I desire to pledge my Hampton property in Virginia. You may be able to reimburse yourself by a sale hereafter; but whether that is so or not, I think it will be good for the amount. I will forward you the deed in a few days, and will then make arrangements with you for the money when I can place the security.

"Yours, truly,

"BENJAMIN F. BUTLER.

"F. A. HILDRETH, Esq."

By Mr. FARNSWORTH:

Q. How did you learn how much you were to advance?—A. I learned from him that he wanted about $38,000.

Q. Did he write again on receipt of your letter in answer to yours, or how did you learn?—A. I learned from him at home.

Q. After Congress adjourned?—A. Yes, sir.

Q. Then from May 10th until the middle of July you heard nothing about it, and he then told you how much he wanted?—A. I think that may be so. At the time he came home he told me how much he wanted.

Q. And then gave you the deed?—A. I think it was then.

Q. Upon making the deed did you give him the advance?—A. I think not; I do not remember the specific time. I trusted the matter entirely to him. I did not, so far as I was concerned myself, care anything about the deed at all.

Q. You were ready to make the advance upon his personal security?—A. I was; but it was rather his choice to give the deed.

Q. And you say that when he gave you the deed you did not make any advance of money?—A. I am not certain; I would not be positive whether I did or not.

Q. Did you tell him you would not take the deed?—A. I think he had already made it. I told him I cared nothing about it.

Q. Did you send it down for record?—A. He had done that himself. He did all the business.

Q. Did you ever receive that deed in your possession and keep it in your possession?—A. I did not keep it, I think. I received it.

Q. It was shown to you and you gave it back?—A. It was shown to me and I think it was already recorded. I would not be positive about that. I paid very little attention to it. It was a matter I cared very little about.

Q. He got it recorded, then showed it to you, but you did not keep it?—A. I did not keep it; I would not say positively that it had been recorded.

Q. You made no advance of money at that time?—A. I may have done; I do not think I did at that time.

Q. Did you make any advances from that time to the time you deeded the land over to the asylum?—A. Yes; I made advances to him amounting to about $12,000 between the time of that letter and the time I made the deed.

Q. That was after the time you got the deed?—A. Yes.

Q. Do you know what you made advances for?—A. I do not know what he wanted he money for.

Q. And you do not know in how many installments you made it?—A. I think about three.

Q. How much at each time?—A. I would not undertake to give the sums.

Q. How did you make these advances—by your check?—A. I think by my check or in cash.

Q. Are you sure which?—A. I am not; if I had the money in my pocket I would give it to him; if I had not I would give him my check.

Q. Did any of the board of managers tell you they wanted to purchase this property before you deeded it over?—A. No, sir; I do not know that they did.

Q. Did you have any conversation with any of them except General Butler about it?—A. No, sir. I wrote a letter to Judge Bond, I think, offering the property for sale. This was at General Butler's suggestion.

Q. Who answered that letter?—A. I never received an answer.

Q. It was laid before the board as you were informed, were you not?—A. I suppose it was. I think General Butler told me so.

Q. And when you were told by General Butler to make the deed you made it?—A. Yes, sir.

Q. And that is all you had to do with it?—A. Yes, sir.

By Mr. BUTLER:

Q. Up to the time you received the letter had you heard anything about the asylum having anything to do with this property?—A. I had not.

Q. After you received the deed were you and I in negotiations with the expectation of carrying on some considerable purchases which might call for money?—A. We were.

Q. Was anything said to you when I gave you the deed as to why it was given?—A. You stated that there might some difficulty occur in regard to suits down there, and that you would rather have it in the name of somebody else than yourself.

APPENDIX G.

Major General JOHN S. NEGLEY,

Of Committee on Military Affairs, House of Representatives, United States:

In answer to your inquiries, I have the honor to report that the land for the Central Branch of the National Asylum for disabled volunteer soldiers, was purchased through a committee appointed at a public meeting of the citizens of Dayton, and from the persons and at the prices following:

The tract of James Crosby, 80 acres, at	$12,000
The tract of Philip Rike, 75 acres, at	9,000
The tract of Abraham Roseberry, 80 acres, at	11,500
The tract of Elizabeth Roop and others, 100 acres, at	10,700
The tract of Mary R. Stansell, 10 acres, at	1,250
The tract of Hiram Stansel, 10 acres, at	1,250
The tract of Elizabeth Coles, 8 acres, at	1,100
The tract of Abraham K. Burtner, 30 acres, at	3,600
Being 393 acres, at	50,400
Of which sum the citizens of Dayton donated	20,000
Leaving the actual cost of the land to the National Asylum	30,400

Or $77 37 per acre.

The land is three miles west of Dayton, bounded on two sides by public macadamized roads, and overlooks the city and miles of the surrounding country. It has numerous springs of excellent water and inexhaustable quarries of valuable stone. Lands adjoining it are now worth from $150 to $250 per acre, and lands a half mile nearer the city are selling from $300 to $500 per acre.

The construction of the buildings and the improvement of the grounds devolved upon me as the local manager, and to show the difficulties encountered and the work actually accomplished, I beg to repeat what I said in the opening of the new hospital, May 19, 1870, as reported in the Cincinnati Gazette:

"A little over two years ago the managers of the National Asylum purchased these grounds and authorized me to commence work. Winter was approaching, and hundreds of disabled soldiers—homeless, penniless, and almost friendless— were seeking admission. We could not wait for plans, nor for an architect. In one week we put up out of Camp Chase lumber, donated by Congress, the first of the one-story barracks, and filled it on the very day it was completed. The next week we put up another, and it was immediately filled. And so we went, in summer and winter, adding building to building, and filling each as soon as it was completed. First we used an old barn for a dining-room; becoming too small, we added a wing, then another, then still another; finally took up and threw out the old barn, raised the whole another story, and left the dining-hall as it now stands.

"The first winter we cared for four hundred men, the second nine hundred, and last winter our rolls showed thirteen hundred, and to-day we celebrate the completion of another building, adding to our capacity three hundred more beds, every one of which will be filled during the coming winter.

"Looking at these buildings and grounds to-day, we are painfully sensible of the fact that there is much that would not stand criticism. Many of you could have done it better; we think it very likely. We can only plead that under many embarrassments and difficulties we did the best we could. Had we thought only of buildings and grounds, only of architectural and landscape effect, we could, perhaps, have done better ourselves. But our constant aim was to help and care for the sick and disabled soldiers, and to provide for them, with the least possible delay, a home—a pleasant, comfortable, and happy home; and if we have succeeded in that, our dearest wishes have been realized and our highest ambition gratified."

The Central Asylum has now upon its grounds sixty buildings. I append hereto a list prepared by Mr. C. B. Davis, architect and superintendent of the work, showing

the material, number of stories, dimensions and capacity in the way of floors and air space of the more important of these buildings. It will be seen that these buildings alone contain 243,341 square feet of floors, equivalent to $5\frac{5}{8}$ acres of floors; and that the air space of the same is 3,079,361 cubic feet.

Cubic measurement, showing air space in the several buildings of the Central National Asylum for Disabled Volunteer Soldiers, Dayton, Ohio.

Description of buildings.	Material.	Number of stories.	Length.	Width.	Height.	Number of superficial feet in floor.	Capacity.
			Feet.	*Ft.*	*Ft.*	*Feet.*	*Feet.*
New headquarters building	Brick	2	110	40	33	8.800	145.200
Hospital, administrative building	Brick	3	130	42	45	16,380	245,700
Hospital wards, (two)	Brick	3	114	28	45	19,152	143,640
Hospital, bath rooms, and water-closets	Brick	4	15	9	57	2,160	7,695
Church	Stone	2	86	48	45	4,048	185,760
Church basement, or school-room	Stone	....	77	48	10	3,696	36,960
Barracks, (six)	Wood	3	100	24	32	43,200	460,800
Barracks, twelve rooms attached	Wood	1	14	13	13	2,184	28,392
Quartermaster and commissary building	Brick	3	120	33	32	11,880	126,720
Old headquarters building	Wood	3	130	30	32	11,700	124,800
Dining-room building and appendages	Wood	3	140	55	32	27,760	256,400
Laundry	Wood	2	86	28	30	2,408	72,240
Workshops, (six)	Wood	1	100	25	14	15,000	210,000
Wagon shop	Wood	2	30	26	22	1,560	17,160
Smith's shop	Wood	1	25	21	12	525	6,300
Machine shop and woodshed	Wood	1	140	28	12	3,920	47,040
Boiler-house and coal-shed	Brick	1	130	26	18	2,678	60,840
Fire-engine building	Brick	2	40	20	30	2,400	24,000
Engine house at laundry	Wood	1	30	30	14	900	12,600
Gas works	Brick	1	41	26	16	.....	17,056
Bath house	Brick	3	55	24	32	3,960	42,240
Music hall	Wood	3	100	42	32	12,600	134,400
Amusement hall	Wood	3	38	31	32	3,534	37,696
Ten-pin alley	Wood	1	90	25	14	2,250	31,500
Insane hospital	Wood	1	215	25	14	5,375	75,250
Water-closets and urinal building	Wood	1	60	10	10	600	6,000
Coal-shed	Wood	1	35	18	12	630	7,560
Stable and granary	Wood	2	150	31	24	4,650	111,600
Wagon-shed	Wood	2	109	32	20	3,488	69,760
Barn	Wood	2	54	38	25	2,052	51,300
Conservatory	Brick	1	92	23	15	640	31,740
Green-house	Brick	1	40	16	10	2,116	6,400
Ice-house	Wood	1	50	25	20	1,250	25,000
Ice-house	Wood	1	27	17	20	459	9,180
Governor's residence	Wood	3	40	40	38	4,800	60,800
Surgeon's residence	Wood	3	40	25	32	3,000	32,000
Treasurer's residence	Wood	2	45	20	24	2,700	21,600
Chaplain's residence	Wood	3	40	25	32	3,000	32,000
Engineer's residence	Wood	2	34	20	24	1,360	16,320
Farmer's residence	Wood	2	38	30	24	3,420	27,360
Hog-pen and house	Wood	1	48	14	12	672	8,064
Slaughter-house	Wood	1	32	16	12	512	6,144
Soap factory	Wood	1	32	16	12	512	6,144
Total	.....	....	.....	....	....	245,037	3,070,361

Included in these buildings, and so proper credits to the construction account, are the engines, two boilers, and heating apparatus of the hospital; the engine, boiler, and machinery of the steam laundry; the engine, boiler, sawing and turning machines of the work shops; the gasworks, in which gas is manufactured from coal in quantities sufficient to light every building of the asylum; the steam-pumps and hydraulic rams which throw water from the lakes into the buildings; the two large iron tanks which form the reservoir for the water supply; the furnaces by which church, library, and offices are heated; all the baths, closets, gas fixtures, &c., and considerable part of the heavier furniture of the church, music hall, library, amusement hall, and other buildings of the institution.

But besides the construction of these buildings, much work has been done upon the grounds. I give some particulars taken from actual measurement. Four lakes have been made, which together cover over six acres of ground, and contain near 20,000 barrels of pure water, supplied by never-failing springs, and affording an ample supply of water for all the purposes of the asylum. Three miles and a half of avenue, much of it 40 feet wide, all of it heavily coated with stone and gravel, have been made since the purchase of the land. Two and a half miles of iron pipe for conveying water and

gas into the several buildings, and one mile and a quarter of drain pipe for sewerage purposes have been laid, and a mile and a quarter of stone culverts for drainage have also been made. In grading the grounds for buildings and avenues, 40,000 cubic yards of earth have been moved, and in building walls for cisterns, wells, sewers, springs, wasteways, to over 2,500 perch of stone have been used. Over 2,000 trees, shrubs, and evergreens have been planted, and nearly three miles of picket and wire fence built.

TOTAL COST OF BUILDINGS, ETC.

In constructing the buildings, and improving and ornamenting the grounds as aforesaid, there have been expended up to December 1, 1870	$579,804 72
Deducting amount realized from sale of Camp Chase lumber, not worth removing	8,018 60
Leaves as total sum expended of asylum funds	571,786 12
Add amount paid by National Asylum for the land	30,400 00
Makes total cost of land, buildings, and improvements	602,186 12

ACCOUNT WITH TREASURER.

I have received from Major General B. F. Butler, acting treasurer of the National Asylum, for purchase of land and construction purposes, at Central Asylum, up to December 1, 1870, the sum of	$606,870 82
And have paid out as above, up to December 1, 1870, for which I have shown vouchers to your sub-committee, the sum of	602,186 12
Leaving in my hands for completion of work, ordered by the board, and now in progress, the sum of	4,684 70

Respectfully submitted.

LEWIS B. GUNCKEL.

DAYTON, OHIO, *December* 1, 1870.

To the honorable the Military Committee, House of Representatives:

GENTLEMEN: In accordance with instructions contained in letter of General James A. Negley, chairman investigating committee, dated October 26, 1870, I have the honor, in the inability of the surgeon from sickness, to transmit hospital reports called for by the aforesaid honorable committee.

In connection therewith, I beg leave to submit a few brief statements of the general history, effects, and management of the hospital. I am glad to congratulate Congress and the nation, through you, on the completion of this grand living memorial to the nation's heroic defenders. We revert to the time when, in the infancy of this asylum, the sick and wounded soldiers were transferred from Columbus, and hundreds of sick, homeless, and friendless soldiers were applying for admission; they were all sheltered in the rude buildings erected from the lumber donated by the United States Government. In these buildings they were exposed to the inclemency of the weather, and suffered from the want of accommodations so essential to the sick. When the present barracks were erected, the old buildings were retained as a hospital. They were rough frame buildings, raised about four feet from the ground, one story in height. In these, although everything possible under the circumstances was done to treat them properly, although their wants as regards medicine, attendance, and diet were satisfied, and they were cheered by the unceasing visits of kind, encouraging friends from all sections of the land, yet our accommodations were very limited, and many of the sick had to be treated in barracks. Thus there was universal joy when the day arrived for the dedication and opening of our present new and commodious building. The presence of thousands who participated in the exercises on that day, and the reception of cheering words of congratulation, encouragement, and sympathy that poured in from all parts of our land, testified to the poor wounded or sick soldier that the nation had not forgotten its humble defenders. It was a proud day for all. This is indeed a "haven of rest" to the wounded or disease-stricken man. Here they may receive that care and attention that may ultimately be the means of restoring them to health and usefulness. They have here every comfort possible to give them away from their homes, and it is a lamentable fact that a large portion of these disabled soldiers, if not cared for here, would be thrown upon the cold mercies of State, county, or township charities. They realize this fact; although they never regret the sacrifices they have

made, they fully appreciate their country's generosity to them, and are grateful. Some of these unfortunate men are so afflicted that they never can recover. They come here prostrated by disease or wounds contracted in the bitter exposures of the war; many, afflicted with consumption and other diseases, will linger out but a brief period on earth. They wander around these beautiful grounds, or gather in the various places of amusement or recreation prepared for them, and are as contented and happy as possible. From the special diet bill of fare, (copy submitted,) articles are ordered by the surgeon to suit particular cases. The average yearly cost of hospital ration for the year ending November 30, 1870, was 29⅛ cents.

I also submit a brief description of the hospital. The building is of brick, three stories high, 293 feet front. It is composed of a center and two wings; the former is the administrative building; the latter, wards for the sick. The three floors are duplicates of each other; the wards are each 31 by 116 feet, to each of which is added two lower rooms 12 feet square, which furnish ample room and commodious apartments for each ward; the front for bath-rooms, the rear for water-closets and urinals. The building is heated by steam, on the most modern and scientific principles. The insane ward is situated 200 feet in the rear, and to the left of the main building. This is also the epileptic ward; here these unfortunate men are attended by careful nurses, until they are removed to the United States Government Insane Asylum, Washington, D. C. The boiler-house and coal-shed are located 200 feet in the rear of the main building, connected by a tunnel 7 feet 3 inches by 7 feet 6 inches wide, in which are the steam and water-pipes and a small rail-way to supply kitchen and other fires with coal. Ultimately all the cooking will be done by steam, supplied direct from the boiler.

In this connection, I would state that the construction of the building was supervised by our worthy and efficient surgeon, Dr. Clark McDermont, who has been identified with the asylum from its infancy, and whose long experience in surgery and medicine, both in civil and military life, eminently qualifies him for the position he holds. In the construction of the hospital he gave the benefit of a wide experience in similar institutions throughout the country.

The whole building is commodious and beautiful, and is an enduring proof of the tender care of the republic for the disabled soldiers who risked their lives for her defense, in time of trouble.

I am, gentlemen, very respectfully, your obedient servant,

E. F. BROWN,
Deputy Governor.

CENTRAL NATIONAL ASYLUM FOR DISABLED VOLUNTEER SOLDIERS,
Dayton, Ohio, December 15, 1870.

Special diet for hospital wards dining-room, National Asylum, Montgomery County, Ohio.

Dishes.	Total.			Dishes.	Total.		
	B.	D.	S.		B.	D.	S.
Apple-sauce				Ham, fried			
Arrowroot				Hash			
Beef, dried				Jelly			
Beef, roasted				Milk, boiled			
Beef tea				Milk, cold			
Blackberries				Milk, thickened			
Cheese				Mackerel			
Chicken, boiled				Mush, fried			
Chicken, broiled				Oatmeal mush and milk			
Chicken broth				Oysters, raw			
Chicken, fried				Oysters, stewed			
Chicken soup				Pancakes			
Custard				Pickles			
Corn-bread				Pie			
Corn-starch pudding				Peaches			
Corn cakes, fried				Potatoes, baked			
Cornmeal mush and milk				Potatoes, fried			
Cocoa				Potatoes, mashed			
Codfish				Rice, boiled			
Crackers				Rice, fried			
Eggs, boiled				Rice and milk			
Eggs, poached				Rice pudding			
Eggs, fried				Soup, beef			
Eggs, raw				Steak, broiled			
Farina				Steak, fried			
Fruit				Toast, dry			
Gravy				Toast, dry, with butter			
Gruel				Toast, soft			
Hominy				Tomatoes, raw			
Ham, boiled				Tomatoes, stew			
				Turnips			

Statement showing in detail expenses of Central Asylum for Disabled Volunteer Soldiers for each month during the year ending November 30, 1870.

Month.	Year.	Officers' salaries.	Paid for labor.	Cost of food.	Cost of clothing.	Cost of medicines.	Incidental expenses.	Total for month.	Number of inmates present on first day of each month.
December	1869	$891 66	$1,670 36	$7,760 09	$754 66	$586 93	$68 52	$11,732 22	913
January	1870	891 66	1,788 91	7,568 99	748 33	559 81	71 56	11,629 26	971
February	1870	891 66	1,899 21	7,243 32	734 19	495 52	53 27	11,317 17	1,020
March	1870	891 66	2,011 48	7,521 15	691 11	501 71	46 83	11,663 94	1,007
April	1870	891 66	2,267 44	6,046 92	652 16	486 95	75 71	10,420 84	882
May	1870	891 66	2,611 88	5,823 16	536 92	411 92	83 42	10,358 96	789
June	1870	891 66	2,589 73	6,831 44	513 81	386 83	50 76	11,264 23	818
July	1870	891 66	2,887 53	7,678 34	542 04	391 49	34 80	12,425 86	879
August	1870	891 66	2,925 93	8,375 54	599 97	374 51	49 08	13,216 69	926
September	1870	891 66	3,007 36	7,411 66	504 93	398 27	63 31	12,277 19	938
October	1870	891 66	3,151 83	7,981 39	585 32	400 01	56 73	13,066 94	967
November	1870	891 66	3,131 50	7,314 71	708 09	383 19	61 07	12,490 22	1,042
Total		10,699 92	29,943 16	87,556 71	7,571 53	5,377 14	715 06	141,863 52	

NOTE.—The profit on the transportation sold for cash pays for the transportation donated to newcomers and others.

Value of products of farm during the year	$7,419 69
Value of products of garden during the year	2,309 01
Value of products of workshops during the year	30,672 67

I certify on honor that the foregoing statement is correct.

E. F. BROWN, *Deputy Governor.*

CENTRAL ASYLUM FOR DISABLED VOLUNTEER SOLDIERS,
Dayton, Ohio, December 15, 1870.

General report exhibiting the diseases and deaths at hospital Central National Asylum for Disabled Volunteer Soldiers, from March 26, 1867, to November 30, 1870.

Diseases.	1867.		1868.		1869.		1870.		Total.	
	No. cases.	No. deaths.	No. cases.	No. deaths.	No. cases.	No. deaths.	No. cases.	No. deaths.	No. cases.	No. deaths.
CLASS I.—ZYMOTIC DISEASES.										
ORDER 1.—*Miasmatic diseases.*										
Typhoid fever	.....	.....	4	.....	5	1	1	.....	10	1
Typho-malarial fever	.....	.....	4	.....	5	.....	7	.....	16	.....
Remittent fever	.....	.....	3	.....	20	.....	2	.....	25	.....
Quotidian intermittent fever	.....	.....	.....	.....	4	.....	.....	.....	4	.....
Tertian intermittent fever	119	.....	96	.....	69	.....	41	.....	325	.....
Congestive intermittent fever	1	1	.....	.....	4	.....	12	.....	17	1
Acute diarrhea	.....	.....	26	.....	81	.....	32	.....	139	.....
Chronic diarrhea	24	.....	48	.....	76	1	19	.....	167	1
Chronic dysentery	3	.....	39	1	29	.....	6	.....	77	1
Erysipelas	4	.....	5	1	9	.....	4	.....	22	1
Gangrene	.....	.....	2	.....	.....	.....	1	.....	3	.....
Pyemia	.....	.....	2	2	1	1	.....	.....	3	3
Dyptheria	.....	.....	3	.....	4	.....	6	.....	13	.....
Mumps	.....	.....	4	.....	.....	.....	.....	.....	4	.....
Debility from miasmatic diseases	5	.....	11	.....	9	2	6	.....	31	2
ORDER II.—*Enthetic diseases.*										
Syphilis	8	.....	26	.....	38	.....	25	.....	97	.....
Gonorrhea	2	.....	9	.....	20	.....	15	.....	46	.....
Orchitis	.....	.....	3	.....	8	.....	4	.....	15	.....
Stricture of urethra	.....	.....	2	.....	10	.....	6	.....	18	.....
Purulent opthalmia	.....	.....	6	.....	2	.....	1	.....	9	.....
Other diseases of this order	.....	.....	6	.....	.....	.....	.....	.....	6	.....
ORDER 3.—*Dietic diseases.*										
Scurvy	4	.....	1	.....	3	.....	2	.....	10	.....
Purpura	.....	.....	1	.....	.....	.....	.....	.....	1	.....
Delirium tremens	.....	1	14	.....	9	.....	12	1	35	2
Chronic alcoholism	7	.....	5	.....	12	.....	10	.....	34	.....
CLASS II.—CONSTITUTIONAL DISEASES.										
ORDER 1.—*Diathetic diseases.*										
Gout	.....	.....	.....	.....	2	.....	.....	.....	2	.....
Acute rheumatism	5	.....	17	.....	54	1	43	.....	119	1
Chronic rheumatism	39	.....	107	.....	84	.....	81	.....	311	.....
Anemia	1	.....	7	.....	3	.....	.....	.....	11	.....
Cancer	4	2	1	1	1	2	3	2	9	7
Tumors	3	.....	3	.....	2	.....	7	.....	15	.....
Dry gangrene	.....	.....	.....	.....	.....	.....	1	.....	1	.....
Other diseases of this order	.....	.....	5	.....	1	.....	.....	.....	6	.....
ORDER 2.—*Tubercular diseases.*										
Consumption	62	17	95	17	140	31	90	28	387	93
Scrofula	2	.....	3	.....	2	.....	1	.....	8	.....
Other diseases of this order	.....	.....	4	.....	.....	.....	.....	.....	4	.....
CLASS III.—PARASITIC DISEASES.										
Itch	.....	.....	5	.....	5	.....	5	.....	15	.....
Tape-worm	.....	.....	.....	.....	1	.....	.....	.....	.....	.....
Other intestinal worms	.....	.....	4	.....	3	.....	3	.....	10	.....
CLASS IV.—LOCAL DISEASES.										
ORDER 1.—*Diseases of the nervous system.*										
Apoplexy	1	.....	1	1	2	1	.....	.....	4	2
Epilepsy	14	.....	34	3	40	1	13	.....	101	4
Headache, chronic	5	.....	20	.....	4	.....	3	.....	32	.....
Insanity	6	.....	8	.....	16	.....	18	2	48	2
Inflammation of the brain	4	1	1	1	.....	.....	.....	1	5	3
Inflammation of membranes of brain	.....	.....	.....	.....	.....	1	1	.....	1	1
Inflammation of the spinal cord	1	.....	1	2	4	4	1	.....	7	6
Neuralgia	3	.....	84	.....	61	.....	14	.....	162	.....
Paralysis	30	.....	35	1	31	2	33	4	129	7
Sun stroke	.....	.....	4	.....	5	.....	14	.....	23	.....
Tetanus	1	.....	.....	.....	.....	.....	1	.....	2	.....
Corea	3	.....	.....	.....	.....	1	1	.....	4	1

Report exhibiting diseases and deaths at hospital Central National Asylum, &c.—Continued.

Diseases.	1867.		1868.		1869.		1870.		Total.	
	No. cases.	No. deaths.	No. cases.	No. deaths.	No. cases.	No. deaths.	No. cases.	No. deaths.	No. cases.	No. deaths.
ORDER 2.—*Diseases of the eye.*										
Amaurosis	16	.....	5	.....	4	.....	3	.....	28	.....
Opacity of cornea	10	.....	15	.....	.....	.....	.....	.....	25	.....
Cataract	.....	.....	3	.....	4	.....	3	.....	10	.....
Inflammation of the conjunctiva	34	.....	89	.....	60	.....	21	.....	204	.....
Total blindness	1	.....	2	.....	6	.....	18	.....	27	.....
Partial blindness	.....	.....	33	.....	36	.....	21	.....	90	.....
Iritis	.....	.....	.....	.....	3	.....	.....	.....	3	.....
ORDER 3.—*Diseases of the ear.*										
Deafness	2	.....	3	.....	6	.....	3	.....	14	.....
Otorrhœa and partial deafness	2	.....	7	.....	7	.....	9	.....	25	.....
ORDER 4.—*Diseases of organs of circulation.*										
Hypertrophy of heart	1	.....	2	.....	6	2	4	1	13	3
Aneurism	1	.....	1	.....	1	.....	.....	.....	3	.....
Chronic valvular disease of heart	2	1	7	3	12	1	4	1	25	6
Dropsy from heart disease	2	.....	2	.....	4	2	8	1	16	3
Inflammation of the pericardium	1	.....	1	1	2	.....	.....	.....	4	1
Varicose veins	5	.....	3	.....	5	.....	6	.....	19	.....
Varicocele	.....	.....	.....	.....	4	.....	.....	.....	4	.....
Other diseases of this order	.....	.....	12	.....	3	.....	.....	.....	15	.....
ORDER 5.—*Diseases of respiratory organs.*										
Asthma	8	.....	25	.....	23	.....	15	.....	77	.....
Acute bronchitis	.....	.....	70	.....	5	.....	5	.....	80	.....
Chronic bronchitis	7	.....	20	.....	32	.....	14	.....	73	.....
Dropsy of chest	.....	.....	.....	.....	1	.....	.....	.....	1	.....
Epistaxis	5	.....	15	.....	10	.....	2	.....	32	.....
Inflammation of the larynx	1	.....	5	.....	1	.....	1	.....	8	.....
Inflammation of the lungs	1	.....	4	4	16	2	3	1	24	7
Inflammation of the pleura	5	.....	34	.....	30	.....	20	.....	89	.....
Hemorrhage from the lungs	2	.....	2	.....	22	.....	17	.....	43	.....
Catarrhal affections	30	.....	50	.....	50	.....	67	.....	197	.....
ORDER 6.—*Diseases of the digestive organs.*										
Cholic	10	.....	14	.....	30	.....	18	.....	92	.....
Cholera morbus	2	.....	4	.....	6	.....	7	.....	19	.....
Constipation	40	.....	83	.....	89	.....	95	.....	307	.....
Cirrhosis of liver	.....	.....	.....	.....	2	.....	.....	.....	2	.....
Dropsy from hepatic disease	.....	.....	.....	.....	2	1	1	.....	3	1
Dyspepsia	10	.....	70	.....	37	.....	28	.....	145	.....
Disease of the spleen	1	.....	2	.....	5	.....	1	.....	9	.....
Fistula in ano	6	.....	5	.....	16	.....	7	.....	34	.....
Femoral hernia	1	.....	2	.....	2	.....	.....	.....	5	.....
Inguinal hernia	17	.....	24	.....	34	.....	21	.....	96	.....
Hemorrhage from the stomach	1	.....	.....	.....	.....	.....	2	.....	3	.....
Hemorrhage from the bowels	.....	.....	8	.....	9	.....	4	.....	21	.....
Inflammation of tonsils	2	.....	11	.....	22	.....	18	.....	53	.....
Inflammation of bowels	1	.....	2	1	9	.....	4	1	16	2
Inflammation of stomach	1	.....	4	.....	2	.....	.....	.....	7	.....
Inflammation of peritoneum	1	.....	1	.....	.....	.....	.....	.....	2	.....
Acute inflammation of liver	.....	.....	.....	.....	3	.....	1	.....	4	.....
Chronic inflammation of liver	2	.....	.....	.....	7	.....	9	.....	18	.....
Jaundice	1	.....	1	.....	6	.....	1	1	9	1
Piles	4	.....	20	.....	38	.....	15	.....	77	.....
Other diseases of this order	10	.....	20	.....	8	.....	11	.....	49	.....
ORDER 7.—*Diseases of urinary and general organs.*										
Diabetes	1	.....	3	.....	5	.....	2	.....	11	.....
Dropsy from renal disease	.....	.....	1	.....	7	2	1	1	9	3
Disease of prostate	.....	.....	.....	.....	1	.....	.....	.....	1	.....
Disease of the testes	.....	.....	1	.....	.....	.....	3	.....	4	.....
Dysuria	10	.....	20	.....	8	.....	12	.....	50	.....

Report exhibiting diseases and deaths at hospital Central National Asylum, &c.—Continued.

Diseases.	1867.		1868.		1869.		1870.		Total.	
	No. cases.	No. deaths.	No. cases.	No. deaths.	No. cases.	No. deaths.	No. cases.	No. deaths.	No. cases.	No. deaths.
ORDER 7.—*Diseases of urinary and general organs*—Continued.										
Inflammation of the kidneys	.....	1	1	.....	7	.....	5	.....	13	1
Inflammation of the bladder	.....	.....	1	.....	5	.....	.....	.....	6	.....
Incontinence of urine	2	.....	7	.....	12	.....	10	.....	31	.....
Urinary fistula	.....	.....	.....	.....	.....	.....	1	.....	1	.....
Hydrocele	.....	.....	2	.....	3	.....	2	.....	7	.....
ORDER 8.—*Diseases of the bones and joints.*										
Anchylosis	1	.....	.....	.....	2	.....	2	.....	5	.....
Caries	4	.....	11	.....	13	.....	5	.....	33	.....
Inflammation of joints	.....	.....	2	.....	10	.....	4	.....	16	.....
Curvature of spine	.....	.....	2	.....	1	.....	1	.....	4	.....
Inflammation of periosteum	.....	.....	1	.....	2	.....	1	.....	4	.....
Necrosis	8	.....	10	.....	19	.....	5	.....	42	.....
Inflammation and ulceration of stump	4	.....	2	.....	20	.....	17	.....	43	.....
ORDER 9.—*Diseases of integumentary system.*										
Abscess	8	.....	14	.....	14	.....	10	.....	46	.....
Boil	2	.....	3	.....	8	.....	10	.....	23	.....
Carbuncle	.....	.....	.....	.....	4	.....	8	.....	12	.....
Ulcer	15	.....	59	.....	103	.....	26	.....	203	.....
Psoriasis	2	.....	.....	.....	.....	.....	.....	.....	2	.....
Elephantiasis	1	.....	.....	.....	.....	.....	.....	.....	1	.....
Other diseases of this order	5	.....	7	.....	12	.....	18	.....	42	.....
CLASS IV.—VIOLENT DISEASES AND DEATHS.										
ORDER 1.—*Wounds, injuries, and accidents.*										
Burns and scalds	.....	.....	2	.....	1	.....	2	.....	5	.....
Contusions	5	.....	11	.....	31	.....	23	.....	70	.....
Concussion of the brain	1	1	2	.....	2	.....	1	.....	6	1
Drowning	.....	2	2	.....	1	1	1	1	4	4
Frozen to death	.....	.....	.....	.....	.....	.....	1	.....	1	.....
Frost bite (old)	4	.....	8	.....	12	.....	8	.....	32	.....
Sprains	2	.....	10	.....	20	.....	6	.....	38	.....
Dislocations	2	.....	2	.....	6	.....	4	.....	14	.....
Simple fractures (not gun-shot)	4	.....	5	.....	10	.....	9	.....	28	.....
Compound fractures	1	.....	2	.....	1	.....	1	.....	5	.....
Gun-shot wounds of all kinds (old)	134	.....	28	.....	147	.....	72	.....	381	.....
Incised wounds	5	.....	3	.....	11	.....	12	.....	31	.....
Lacerated wounds	1	.....	2	.....	10	.....	10	.....	23	.....
Punctured wounds	1	.....	1	.....	.....	.....	.....	.....	2	.....
Poisoning	1	.....	.....	.....	.....	.....	.....	.....	1	.....
Shooting	.....	1	.....	.....	.....	.....	.....	.....	.....	1
Died on furlough	.....	.....	.....	2	.....	5	.....	6	.....	13
Grand total	831	28	1,665	41	2,073	65	1,325	52	5,894	186

The report of the third quarter for 1869 was made out for four months. Hence the column for that year includes thirteen months, while that for 1870 includes only three quarterly reports, or nine months. This accounts for the number of cases given as treated respectively in 1869 and 1870.

A. S. DUNLAP,
Assistant Surgeon.

National Asylum for Disabled Volunteer Soldiers—Northwestern Branch.

BILL OF FARE.

SUNDAY.

Breakfast.—Cold corned beef, meat and vegetable hash, brown bread, butter or sirup' coffee.
Dinner.—Baked pork and beans, potatoes, pickled beets, bread, pie, coffee.
Supper.—Bread, coffee, cake, butter, fruit, tea.

MONDAY.

Breakfast.—Fried pork and potatoes, cold beans, bread, butter or sirup, coffee.
Dinner.—Roast beef, potatoes, boiled onions, bread, coffee.
Supper.—Hominy or mush and sirup, bread, butter, tea.

TUESDAY.

Breakfast.—Beef stew, bread, butter or sirup, coffee.
Dinner.—Beef and vegetable soup, boiled pork, potatoes, bread, boiled cabbage.
Supper.—Bread, butter, cheese, tea.

WEDNESDAY.

Breakfast.—Meat and vegetable hash, cold boiled pork, (sliced,) bread, butter or sirup, coffee.
Dinner.—Mutton roast or pot pie, potatoes, bread, pickles, coffee.
Supper.—Rice and sirup, bread, butter, tea.

THURSDAY.

Breakfast.—Mutton stew with vegetables, bread, butter or sirup, coffee.
Dinner.—Boiled shoulder, potatoes, boiled cabbage, bread, coffee.
Supper.—Biscuit, bread, butter, fruit, tea.

FRIDAY.

Breakfast.—Fish balls or mackerel, shoulder, (sliced cold,) bread, butter or sirup, coffee.
Dinner.—Cod-fish, beef, (roast or boiled,) potatoes, bread pudding, coffee.
Supper.—Corn bread, bread, butter, tea.

SATURDAY.

Breakfast.—Beef stew, bread, butter or sirup, coffee.
Dinner.—Corned beef, (boiled with vegetables,) bread, coffee.
Supper.—Ginger-bread, bread, butter, fruit, tea.

This bill of fare shall be followed for full diet in this asylum until further orders.

S. K. TOWLE,
Acting Steward.

Approved.

JOHN WOOLLEY,
Deputy Governor.

DECEMBER 1, 1870.

CENTRAL ASYLUM FOR DISABLED VOLUNTEER SOLDIERS,
Dayton, Ohio, December 15, 1870.

GENTLEMEN: In compliance with your request of October 26, 1870, I have the honor to submit the following statement of the general management and workings of this branch of the National Asylum for Disabled Volunteer Soldiers, from its organization to the present time.

The honorable the board of managers of this asylum, after careful investigation and personal inspection, fixed upon this as a site in every way eligible for its present purposes. Many important things had to be considered in locating a "home" for more than a thousand disabled and debilitated men, and the great advantages, belongings, and surroundings of this beautiful spot attest, in the very strongest manner, to the zeal and ability of the managers in the discharge of this duty. They negotiated here for 400 acres of splendid land—four farms—on a ridge of hills, with beautiful woods, overlooking the city of Dayton and surrounding country, with the Miami Valley and Rive r skirting their base. The location is three and a half miles from the city of Dayton, on

an eminence, determined by actual geological survey to be 274 feet above low-water mark in the Miami River, at Dayton, and 561 feet above low-water mark in the Ohio River at Cincinnati, in the heart of a rich farming country, and in every way healthful and desirable. This purchase, as appears from the minutes of the board of managers, was approved and ratified at their meeting on the 7th day of September, 1867.

The organization of this, the Central Asylum, as an institution, dates from March 26, 1867, at which time Hon. L. B. Gunckel, resident manager, took formal charge of the disabled soldiers then at the Ohio State Home, and transferred them to the care of the National Asylum.

The grounds where this institution now stands were taken possession of early in August, 1867, and the first men were sheltered here September 2, 1867, but the final transfer of all the disabled soldiers from the Ohio State Home did not take place until the very last days of 1867; so that it is not quite three years since this branch was fully established.

It has always been the warm desire of the resident manager—and this desire permeates all his actions—to make this a "home," a real "home," for the brave men disabled in the nation's service, but it was his first care to provide a shelter as speedily as possible for these disabled men, and temporary buildings then standing at Camp Chase, Ohio, and donated to us by the Government, were transferred to this place and re-erected here, and such was the demand for shelter that each building was crowded before its completion. This state of affairs existed through the winter and spring of 1868; even temporary shelter could not be provided as fast as it was demanded, and the board of managers contracted for the maintenance of many disabled soldiers at some of the old State Homes until buildings sufficient for their accommodation could be erected here and at the other barracks.

Day by day this institution grew larger until it has assumed immense proportions; and large as it even now is, it is scarcely able to accommodate the number of men who rejoice in and are blessed by its benefits. This day it furnishes a comfortable, and, in some respects, a luxurious home to 1,130 disabled soldiers, furnishing them with amusements, entertainments, literature, education, moral and religious instruction, light and suitable employment, good quarters, clean clothing and linen, and excellent food. In addition to these, we have 350 men on furlough, making our total number 1,480.

To the casual observer, the person who saw this place in 1868 and did not again behold it until 1870, the rapid growth of the buildings and the vast improvement and ornamentation of the grounds seems a grandeur of design and a miracle of execution; indeed, to the constant observer of this work it seemed to progress with unexampled rapidity. To the efficient local manager, Hon. L. B. Gunckel, and to his zeal and energy in the cause, is attributable this wonderful advancement.

We were at first compelled to put the sick in the old wooden barracks from Camp Chase, but to-day a magnificent and well-appointed brick hospital affords fitting accommodation to 300 sick and disabled soldiers.

At first we worshiped God in any available place, but to-day a beautiful church points its steeple to the heavens, and affords us a sanctuary where we may kneel and thank the God who guided us to victory for the blessings and the comforts of this noble institution. America may well be proud of this asylum for her war-worn heroes, sheltering, as it does, more disabled soldiers than the oldest military institution in the oldest or greatest military nations in the world.

Economy and a desire to divert the minds of the men, as well as to profit the institution, suggested that many of the articles of furniture and much of the repairing needed in the institution be done upon the premises by inmates, and at little expense, and that some light trades suited to the disabled condition of the men be put in operation. Accordingly shops were organized from time to time, and to-day we have, in full working order, and run by inmates, shops in which the following trades are adroitly and profitably plied, viz: Plumbing, gasfitting, carpentering, cabinet-making, wagon-making, blacksmithing, shoemaking, harness-making, cigar-making, basket-making, broom-making, chair-bottoming, painting, printing, tinning, book-binding, and knitting by machinery.

As a natural result of the war, the men were demoralized and disorderly, and needed more or less restraint and severity. A guard-house was established, which was at first well patronized, and severe and peremptory measures were found necessary to the proper discipline of the institution.

But the humanizing influences of the spacious library, containing 3,264 volumes of the choicest literature, the moral and religious teachings administered, and the refining effect of the splendid grounds and surroundings, rapidly obliterated this moral miasma, so that our guard-house is little used, and discipline is now so easy that peremptory measures are seldom necessary to its enforcement.

Before proceeding further I am constrained by a sense of duty to pay a well-earned tribute to Mrs. Mary Lowell Putnam, of Massachusetts, who generously donated to us the "Putnam Library," numbering over 3,000 volumes, the very gems of literature. She also gave us some hundreds of precious pictures, mostly of foreign production, and these

ornament the room in which her literary gift is placed. She has made us presents to the value of several thousand dollars, and scarce a week passes without bringing us fresh proofs of her friendship, generosity, and devotion. Of all our many kind friends she stands the foremost, and there is not a veteran within our walls but feels for her the truest and warmest affection, and fervently blesses the noble, generous woman who evinces so strong an interest in his welfare and elevation.

Our artificial lakes cover a space of six acres, and our ornamental springs, rustic arbors, grottos, green-houses, and hot-houses elicit the admiration of all. We have a deer park, containing twenty-eight deer.

For the amusement of the men we employ billiards, bagatelle, pigeon-hole, ten-pins, foot-ball, and base ball, and each has its votaries, and is fraught with good results. We have also a beautiful music hall, and many entertainments are given us therein by our kind friends of Dayton and vicinity. Few persons are in a better position than we to attest to the loyalty of the American people. We are visited, favored and entertained by all classes of the people, and every one seems pleased at beholding here what the Government has done for its defenders.

Among their many praiseworthy qualities, there is one possessed by our men that wins my admiration, and that is their industry.

No matter how badly disabled they may be, some ingenious contrivance, generally originating in their own brains, is devised to so far overcome their disability as to make it possible for them to work; and disabled men, inmates of this asylum, perform the necessary work in the bakery and kitchens, on the farm, in the gardens, driving asylum teams, &c.; in fact, all the asylum work is done by inmates, except four citizen employés, and even these will be dispensed with so soon as inmates are found who are competent to take their places. We have a well-appointed bath-house, and the men fully appreciate it.

Our command, numbering 1,130 men, is divided into eleven companies, each under the charge of an orderly sergeant, and mustering about 100 men present. We have no corporals or sergeants, simply the orderly sergeant in charge, each of whom makes up a morning report every day, and delivers same to the post adjutant, who consolidates them. These sergeants draw and issue underclothing to their men every week, see that their beds are in order and their quarters kept clean, and do any and everything necessary to the proper police of their barrack. We have an inspection of the full command every Saturday, and an inspection and muster on the first Saturday in each month; and, such is the efficiency of the sergeants, that we seldom find anything to correct or regulate. The men are very cleanly in their every-day life, and they come on inspection looking neat and in good order.

We have a regular United States post-office here, and the postmaster and assistant postmaster are appointed from among the disabled soldiers. We have also an asylum store, in which is sold nearly everything which the men are likely to want. This store is managed by a disabled soldier, and the net profits of the same go to the literary and amusement fund of the institution, managed and controlled by the chaplain.

I have nothing more of interest to say, but I cannot close this report without referring to the general good conduct of our men. Here are over 1,100 men, representing a population of at least 8,000 persons, and yet almost as orderly and quiet as a private family. This is a feature of which I am peculiarly proud.

I have the honor to be, gentlemen, very respectfully, your obedient servant,

E. F. BROWN,
Deputy Governor.

THE HON. COMMITTEE ON MILITARY AFFAIRS,
House of Representatives.

APPENDIX H.

MILWAUKEE, *December* 14, 1870.

GENERAL: In reply to your letter asking information as to cost of grounds and improvements made thereon at the Northwestern Branch National Asylum, I have the honor to report as follows:

Cost of 410 acres	$77,000 00
Cost of buildings and improvements to November 30, 1869, when my duties therewith ceased	347,050 85
Expended since on same account, as appears from records of the asylum	12,832 90
Total	436,883 75

Very respectfully, your obedient servant,

E. B. WOLCOTT,
Resident Manager.

General JAMES S. NEGLEY,
Chairman Committee House of Representatives on Investigation of National Asylum, &c

APPENDIX H.

MILWAUKEE, WISCONSIN, *January* 3, 1871.

GENERAL: I have the honor to transmit herewith my report called for in your letter of October 26, ultimo. I regret that I cannot give you such a report as you desire, and as I would like; but wanting the records from which to compile it, I am prevented from so doing. I have given you all that I can find here, but from such information as I have I am of the opinion that you can get from the reports in possession of General Butler, president and treasurer, all the information you call for. So far as the general management of this branch is concerned, I have only partial information, and that to the effect that it has always been well governed, and that the law, by-laws, and regulations have uniformly been complied with. The inmates have been well provided with quarters, clothing, and rations in abundance and of first-rate quality: in fact, better supplied than a large portion of the community outside the asylum. The mental wants of the inmates have been well supplied in the way of a good library, which now numbers 1,500 volumes, and also with daily, weekly, and tri-weekly newspapers, together with a liberal number of the most popular magazines and pictorial sheets. Every effort has been made to improve the moral condition of the men. Religious exercises are held three or four times per week by both Protestant and Catholic denominations, and in some measure with good results. Corporal punishment is never resorted to, moral suasion being the rule, and when that will not do, expulsion or some slight fine or light labor is imposed. We have a temperance organization of Good Templars numbering about 100 members, also a Catholic society having some 60 members, whose object is to better the general condition of the men. Both of these are doing good work, and are heartily countenanced by the officers. Bagatelle tables, chess, backgammon, dominoes, cards, and ten-pins afford partial amusements. Concerts and theatrical entertainments are given by the inmates, and occasionally by our friends from Milwaukee, who generously come to us, and by their performances help to break the monotony of asylum life. Instruction in music is a feature, and we now have a band which, considering the short time they have been playing, render a very fair performance. Vocal music has its votaries, also, and our church and society singing is quite as good as that generally found in any community. In skilled labor we are very deficient, and our workshops are used only for repairing, and keep quite a number constantly employed. In the warm weather a large number find employment in cultivating the farm, fields, and garden, and keeping the avenues and grounds in order. Our farm the past year has proved quite profitable, as evidenced that we have not to buy grain or vegetables of any kind save potatoes. Our hospital department is very complete and comfortable, and every attention is given to the afflicted. Regular and special nurses are employed, and in the matter of diet just care is taken in furnishing the most wholesome quality, and in variety to suit all tastes. Taking the asylum as a whole, buildings, outfit, and grounds, I think it quite the equal of any public institution in this country, and certainly no country furnishes so good a home for its maimed and crippled soldiers, or one where their every want is more generously supplied.

I am, general, very respectfully, your obedient servant,

JOHN WOOLLEY,
Deputy Governor.

General JAMES S. NEGLEY,
Chairman Congressional Committee.

APPENDIX I.

NATIONAL ASYLUM, EASTERN BRANCH,
Augusta, Me., November 30, 1870.

SIR: In accordance with your request, I beg leave to offer the following report upon the condition of the Eastern branch of the National Military Asylum.

As you already know, this branch was opened early in the year 1867 at Togus Springs, a watering-place five miles east of the city of Augusta.

A large hotel, (with outbuildings, stable, and barns,) capable of accommodating 300 guests, stood upon the spot. Its adaptability to the purpose required, and its readiness for almost immediate occupancy, induced the board of managers to secure it as soon as its advantages became known. The former owner had spent large sums of money in building the hotel and clearing the grounds; but his enterprise failed, as the attractions were insufficient to bring together a large number of fashionable people. The board of managers were therefore enabled to purchase the property upon very favorable terms. The buildings were immediately fitted up for the use of the soldiers, and their number constantly increased during the year 1867.

In January, 1868, there were 221 soldiers connected with the institution; but in the

latter month a misfortune occurred in the burning and total destruction of the principal building of the establishment.

The most of the beneficiaries were removed to other homes, and measures taken to rebuild. A brick hospital, which had previously been erected near the main building, was saved from the fire in a damaged condition.

In 1868 and 1869 three more brick buildings were erected, and the fourth one repaired. These were made nearly fire-proof, were heated by steam, and the most modern apparatus supplied for gas, kitchen, laundry, &c. Their arrangement for the health, convenience, and comfort of the men is all that could be desired; and it may be truly said that these buildings, as well as those subsequently erected for other purposes, show a remarkably economic management in their construction.

The amount of money expended for the purchase of grounds and for permanent improvements has been as follows, viz:

Hotel, furniture, out-buildings, and 1,100 acres of land		$50,000
Wood lot, 400 acres, bought in 1869, 10,000 cords standing wood		6,500
		56,500
Craig lot, so called, for reservoir, 160 acres		1,300
		57,800
Fittings to hotel buildings, apparatus for steam-cooking, plumbing, &c., and repairs to other buildings		26,000
Cost of four principal brick buildings, with gas, cooking, heating, and washing apparatus		100,000
Brick barn		5,000
Wooden barns and other out-buildings repaired		5,000
Amusement hall, (brick)		17,000
Governor's house, (brick)		10,000
Storehouse, (wood)		1,000
Carpenter's shop, (wood)		500
Reservoir for water supply, 2,477,700 gallons capacity		16,000
Workshop, (brick)		5,000
		243,300
Deduct losses by fire on main building	$40,000	
On fixtures and furniture	30,000	
On damage to new buildings	5,000	
		75,000
Leaving the total cost of present buildings and grounds		168,300

A description of the buildings is appended.

The cost of maintaining the asylum for the year ending November 30, 1870, is as follows:

Abstract "A," subsistence	$42,263	73
Abstract "C," farm	7,683	79
Abstract "D," property	8,757	77
Abstract "E," current expenses	43,269	45
Abstract "F," incidental	2,319	55
Abstract "G," transportation	9,987	93
Abstract "I," hospital	496	12
Abstract "J," clothing	783	92
	115,562	26
Less received for clothing and transportation from men, and subsistence, charged construction, being cost of supplies to mechanics	16,661	37
	98,900	89

It is due to the farm to say that it has supplied the subsistence account with food, valued at $5,714 86.

A statement of the number of inmates of the asylum on the first day of every month since the opening of the asylum is appended.

The farm is, as yet, in its infancy, the work of construction having engaged the services of all the available men and teams most of the time. There are 150 acres of arable land. The past season there were cultivated some 50 acres; the other 100 acres are in upland grass. There are also some 100 acres of meadow land, which have hitherto been overflowed in winter time, but means have been taken the past season to insure its drainage. It lies in a sort of dish shape, surrounded by hills, the build-

ings being placed upon rising ground or knolls in its center. The rim of this dish has been cut through to permit the rapid outlet of the water which flows from the high lands. The value of the farm has been very much increased thereby, as it is expected in future to produce upon this meadow two or three tons of upland or English grass hay, instead of one ton of wire or swale grass hay per acre.

The products of the farm and their value have been as follows for past year:

100 tons English hay, say $20	$2,000 00
100 tons swale hay, say $10	1,000 00
1,620 bushels potatoes	900 00
282 bushels turnips	166 25
107 bushels beans	286 50
200 bushels oats	100 00
3,763 gallons milk	962 10
Small items	300 00
Increase of stock by growth	1,500 00
Beef killed	3,300 00
	10,514 75
Less hay used by farm animals	1,500 00
	9,014 75

With a liberal outlay in a stock of good animals and implements, and an abundance of labor, there is no reason why the farm may not become very profitable, for we possess an immense advantage in our facilities for making manure, which is the foundation of all farming in the Eastern States.

The land is well adapted to stock-raising, and the hope is indulged that in a few years it may be made to produce quite a large proportion of the beef consumed by the soldiers.

One year ago there was much mental unhealthiness exhibited by the men, both of the active and passive kinds, and it soon appeared that not only amusement but work was necessary to their happiness and proper discipline.

During the winter, lectures and debates were had, and some concerts and theatrical entertainments given, in which the inmates performed the parts. As soon as spring opened, all who were able to do anything at all were set at work on the farm, the reservoir, and on the construction of buildings. Of course citizen mechanics were employed to do the skilled labor, but the men have done a vast amount of simple labor for the Government on an average pay of $15 a month. Many men of sedentary habits, old men, and those who have lost a leg, found nothing to do until the establishment of the shoe factory, which was started in June with a proper set of tools and machinery. Four experts were engaged to prepare the work and teach the men. After the drawbacks always to be encountered in such an enterprise, the business may now be said to be well established, with flattering prospects of success in a pecuniary point of view. As for moral success, it is an accomplished fact. Already there are forty men employed who would be otherwise leading idle, objectless lives, ready subjects for the tempter in whatever guise he might appear. We have made, up to the date of this report, (November 30, 1870,) 14,940 pair of shoes, for which we have paid to inmates as their share for labor $2,008 85. We do not assume that these men are always to remain in an institution of this kind, but expect many of them, as they regain health and spirit, to again go out into the world and take their share in the duties of society and citizenship. And with what stronger hope or assurance can they undertake once more to assume such duties, than is inspired by the possession of a good trade?

Any worthy soldier who has received an honorable discharge from the Army, if suffering under such a degree of disability that the privileges and comforts of such a home as this would be convenient to him, may enter the asylum, upon assigning thereto his pension for the time during which he may remain therein, and giving an obligation to be governed by the rules and articles of war, and such other regulations as may be prescribed by the board of managers, or the officers of the asylum. If he has dependents, his pension money is sent to them. If he has no relatives, his money is given to him in such sums as is deemed for his interest, the cost of his clothing being first deducted. The money earned by labor in the Institution is paid over in the same manner.

It may here be remarked that a shop has been opened to save the necessity of too frequent visits to the city, which never result in much good. The soldiers can receive checks or money tokens which are good in the asylum store any day; but money proper, only once a fortnight. The profits of the store go to the amusement fund, which is expended for the pleasure of the men. The largest items of expenditure from this fund

have been for billiard tables and stage scenery. All fines go to the credit of the same fund, so that the bad soldier is made to pay for the amusement of his comrades.

Any soldier may have a discharge or furlough, upon giving reasonable evidence of being able to pay his traveling expenses and support himself.

It has been found necessary to make stringent conditions of readmission, however, as the restless disposition of the men, and the undue confidence that they acquire in themselves, after a season of freedom from temptation, lead them often to desire a discharge when it is to their interest to remain in the asylum.

I certify upon honor that the foregoing statement is true, all the facts and figures being taken from the books and records in the office of this branch.

WM. S. TILTON,
Deputy Governor.

General J. F. ASPER, M. C.,
For Military Committee of the House of Representatives.

Dimensions of the new brick buildings.

	Length.	Breadth.	Depth.	Capacity.
A building	98	42	34	139,944
B building	98	42	34	139,944
C building	98	47	24	110,544
D building	98	47	24	110,544
L of C building	25	28	26	18,200
Boiler-room	39	55	16	15,600
Coal	30	54	16	25,920
Barn	97	48	24	115,000
Workshop	78	48	24	89,856
Governor's house	41	33	30	41,084
Governor's house, L	28	16	18	8,064
Amusement hall	73	58	31	133,371
Air space, cubic feet				948,071

WM. S. TILTON,
Deputy Governor.

Table, showing the number of inmates on the first of each month since the opening of the institution.

1866.		1867.		1868.		1869.		1870.	
Date.	No. present and absent.	Date.	No. present.	Date.	No. present.	Date.	No. present.	Date.	No. present.
January 1	0	January 1	8	January 1	221	January 1	140	January 1	551
February 1	0	February 1	11	February 1	78	February 1	138	February 1	479
March 1	0	March 1	31	March 1	82	March 1	164	March 1	438
April 1	0	April 1	90	April 1	88	April 1	164	April 1	432
May 1	0	May 1	188	May 1	85	May 1	187	May 1	441
June 1	0	June 1	189	June 1	92	June 1	204	June 1	444
July 1	0	July 1	191	July 1	95	July 1	403	July 1	454
August 1	0	August 1	186	August 1	103	August 1	415	August 1	440
September 1	0	September 1	184	September 1	113	September 1	448	September 1	434
October 1	0	October 1	185	October 1	121	October 1	501	October 1	443
November 1	0	November 1	188	November 1	129	November 1	531	November 1	441
December 1	0	December 1	214	December 1	133	December 1	565	December 1	

146 inmates transferred to Philadelphia and Dayton. Asylum burned. No accommodations.

I certify that the foregoing table is correct.

P. T. WOODFIN,
Secretary.

Surgeon's report.

General WILLIAM S. TILTON:

In accordance with your instructions I submit a statement showing the workings of the hospital for the past year.

The largest number present at any one time was 51, in the month of January. In the month of May the number was reduced to 15 and in September to 14, the smallest number present at one time. Several have been admitted in such a low condition that they survived but a few weeks or days in some cases. No one the past year has died of any disease contracted here.

Of the whole number treated for the past twelve months, (114,) 72 have been cured and discharged, 19 deaths have taken place, several have been transferred, and 18 are now under treatment.

The object of the surgeon has been to coöperate with the general in having every man perform some useful labor as far as he was able. The use of alcoholic stimulants has been curtailed as far as possible, the use for most part being in the composition of tonic bitters, &c.

As to the character of the diseases, those of a chronic character are the prevailing ones.

There have been twenty-seven distinct diseases treated, as follows:

Consumption, 33 cases; chronic rheumatism, 10; gun-shot wounds, 8; diseases of the eye, 8; general debility, 6; necrosis, 5; intermittent fever, 4; paralysis, 4; chronic bronchitis, 4; locomotor ataxia, 3; insane, 1; heart disease, 3; chronic ulcers, 3; hemiphlegia, 2; paraplegia, 2; chronic diarrhea 2; syphilis, 2; gonorrhea, 2; asthma, 2; hernia, 2; dropsy, 2; dyspepia, 1; stricture of rectum, 1; eczema, 1; cancer, 1; pleurisy, 1; Bright's disease, 1; total, 114 cases.

The ratio of numbers in hospital, and of deaths to the whole number present in the institution for each month, has been as follows:

	In hospital.		*Deaths.*	
December, one in	9.01	one in	260.50
January, one in	8.79	one in	431.00
February, one in	9.86	one in	141.03
March, one in	12.30	one in	369.00
April, one in	14.76	one in	109.00
May, one in	20.00	one in	170.00
June, one in	18.33	one in	303.50
July, one in	19.33	one in	207.50
August, one in	22.00	one in	412.00
September, one in	24.23	one in	135.33
October, one in	27.06		
November, one in	19.83		

These figures include the whole number treated during the month, which is, of course, larger than the number present in hospital at any one time.

Respectfully submitted.

I. H. STEARNS,
Surgeon.

41ST CONGRESS, 3d Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 46.

BRADY'S COLLECTION OF HISTORICAL PORTRAITS.

MARCH 3, 1871.—Ordered to be printed and recommitted to the Joint Committee on the Library.

Mr. PETERS, from the Joint Committee on the Library, made the following

REPORT.

The Joint Committee on the Library, to whom was referred the memorial of M. B. Brady, of New York, photographer, proposing to the Congress of the United States the purchase of his National Collection of the portraits of eminent Americans, embracing those of our most illustrious statesmen, legislators, jurists, journalists, inventors, authors, artists, explorers, soldiers, sailors, and representative men of various classes, having duly considered the same, submit the following report:

The work of forming and completing the large and varied Collection of Portraits embraced in the catalogue of Mr. Brady's gallery, has been the occupation, in a prime measure, of thirty years of his business life, during which period, as is well known, his superiority as a photographic artist has earned for him national recognition and distinction. His collection presents, in the highest perfection to which the photographic art has attained, an historical gallery in which the most illustrious men in our history are embraced, and is therefore a property unique in its character and interest, and of a value not to be estimated solely by a pecuniary standard. It is, as it were, a Photographic Pantheon, in which the votive genius of American art has perpetuated, with the unerring fidelity with which the lens of the camera does its inimitable work, not only the likeness of form and feature, but the very countenances, with their living and natural expression, of those in whose achievements in all walks of life the American heart takes pride, and whose memory we endeavor to glorify by whatever means it is in our power to exert.

There are many considerations which are of controlling influence in the conclusion to which your committee have arrived, that such a collection as the one in question—one so comprehensive and national in its character, and so impressive with patriotic and personal associations, in the fact that all its portraits have been taken from actual life—should not be permitted to remain subject to the vicissitudes of mere personal ownership, but, for the sake of its preservation and permanent safety, should become the property of the Government.

As the mere illustrator and exponent of the photographic art, now so universal in its adaptation to the highest human tastes, and so conducive to human welfare and happiness, in the possession of our Government this Collection of Historical Portraits would become a monument to the inventive genius of our own country, through which photography has reached its present degree of perfection. As a memorial

of the illustrious dead, whose names are connected with the great events of American history, there can be no more worthy act performed by the Congress of the United States than to secure for it a fixed place of deposit in the Library of Congress; while the collection, placed there in an accessible and suitable form for general inspection and study—an historical album both of the living and of the dead—would be a constant source of national gratification, and its locality the very shrine of patriotism. "A portrait," according to an eminent authority, "is superior in real instruction to half a dozen written biographies;" nor can we doubt that the purchase by the Government of this Collection, and its exhibition in the Library, will fail to exert the most salutary influence, kindling the patriotism as well as the artistic taste of the people. Through its means the country will become possessed of a rare collection of the portraits of her most distinguished sons. A collection around which not alone the idle and the curious will linger, but to which the artist will resort for the faithful representations of men, many of whom the eye may no longer behold, and where the historian may enrich his page with glimpses of life-like reality.

The gallery, in the form in which it is proposed by Mr. Brady to convey it to the Government, contains an aggregate of two thousand portraits, or thereabouts, and the same are to be uniformly mounted, classified, and bound, under the direction of the Joint Committee on the Library, or otherwise, as Congress shall direct. With reference to the price to be paid to Mr. Brady, and for which provision is made in the bill to be submitted, your committee have to say that the sum named is one which has been determined upon between your committee and the memorialist; and while falling short of the expectation of the latter as to the sum which, in view of the value of the property, might reasonably be demanded, is one, nevertheless, which, having been proffered by your committee, he has finally concluded to accept.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 47.

WILLIAM H. POWELL.

MARCH 3, 1871.—Ordered to be printed and recommitted to the Committee on the Library.

Mr. PETERS, from the Joint Committee on the Library, made the following

REPORT.

The Joint Committee on the Library, to whom was referred a joint resolution of inquiry relative to the contract with William H. Powell, for painting a picture for the National Capitol, illustrative of some naval victory, said contract being authorized by joint resolution of Congress approved March 2, 1865, *have considered the same and report:*

That four annual payments of $4,000 each have been made under the terms of the contract for said painting, besides the advance payment of $2,000 required by the joint resolution; that the committee have several times suspended the payment of the annual installments provided for in the resolution, under the terms of the proviso inserted in the contract by the committee, which proviso stipulates that "the committee may withhold the payment of any one or more of the annual installments of $4,000 whenever, in their judgment, the work is not satisfactorily progressing;" that the two last payments to Mr. Powell on account of the picture were ordered by the committee only upon certificates of the progress of the work, which furnished evidence deemed authentic by the committee that the picture was nearly completed; that the latest evidence thus furnished, under date of February 21, 1870, set forth that—

> The painting is complete in its drawing and in the proper position of all the vessels engaged. The colors are well laid in, and require only the retouching of light and shade to finish it. In our judgment the painting may be finished by the 1st of July proximo. We are therefore of the unanimous opinion that the last annual installment of the payment of three-fourths of the whole amount appropriated by Congress should be paid forthwith.
>
> JOHN A. DIX.
> E. W. STOUGHTON.
> FRANCIS VINTON.
> WM. H. ASPINWALL.
> A. A. LOW.

And that the committee, having reserved the sum of $7,000 in the contract, as not to be paid until the delivery of the painting, also required that "the picture shall be executed with reasonable dispatch, and be delivered to the committee within five years of the date" of the contract, which term of five years expired on the 2d of February, 1871.

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41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 48.

VENTILATION OF SENATE CHAMBER AND HALL OF HOUSE OF REPRESENTATIVES.

MARCH 3, 1871.—Ordered to be printed and recommitted.

Mr. JENCKES, from the Joint Committee on Ventilation, made the following

REPORT.

The Committee on Lighting, Heating, and Ventilating the halls of the Capitol, to whom was referred the petition of F. C. Clark, agent, for the substitution of Wilson's electrical lighter for the one now in use over the Hall of the House of Representatives and in the dome and rotunda of the Capitol, submit the following report:

The committee gave notice of the pendency of said petition to Samuel Gardiner, the present electrician of the Capitol, and heard the parties at length upon the comparative merits of the apparatus. The committee have also examined the Gardiner apparatus, now in use in the Capitol, and have visited Corcoran's Art Gallery in this city and witnessed the operation of the Wilson lighter. Each apparatus is operated by electricity, but upon a different principle, and by substantially different means.

The Gardiner apparatus requires the use of the galvanic electricity, generated in such quantity as to heat a platinum wire over the lip of the burner to redness, and thus ignite the gas when it begins to flow. The battery required for this purpose is very large and powerful, and occupies one entire room in the central building of the Capitol. The Wilson lighter operates by an electric spark passed through the gas at the moment it is turned on. For this purpose a small battery only is required, with a coil and a connection, by means of a wire, with the burner, where the circuit is broken, and the spark made to pass between the disconnected points of the wire, whenever the electricity is permitted to act. The cost and the advantages and disadvantages of each are fully set forth in the papers hereto annexed.

As this business of lighting the Capitol is in charge of the Superintendent of Public Buildings and Grounds, the committee addressed a series of questions to him, framed so as to obtain information upon some questions of fact in dispute, and also to obtain his opinion upon the relative merits of the apparatus. A similar communication was addressed to the Architect of the Capitol. The questions and the answers of the two officers to whom they were addressed are hereto annexed.

The committee have looked at this proposition for a change in the mode of lighting the gas in the Capitol as a question of economy, under certain conditions. These conditions are that each apparatus should be certain and reliable in its operation, and not liable to accidents arising from its construction and mode of operation; and that there should be no liability for the use of any patented invention. It should require no

greater amount of skill to operate one than the other, or to keep the parts of the apparatus in repair and in working order.

Supposing those conditions to be equal, the Wilson apparatus is so much simpler in its construction and operation than the other, that the expense required to keep it in constant use appears to be but little more than the salary of the electrician. The saving in the use of the Wilson apparatus over the expense of keeping up and operating the Gardiner apparatus would pay for the cost of the change in four or five years at the furthest, even if nothing were realized from the sale of the apparatus now in use. On the question of economy the advantage is greatly in favor of the Wilson lighter.

The architect, however, does not seem to think that the Wilson apparatus has been in use for a sufficient length of time, or under circumstances testing its qualities and capacities, to justify its being placed in the dome of the Capitol, where any slight accident or failure to operate might be attended with dangerous consequences. As it has been already ordered to be applied to the lighting of the gas in the Senate chamber, it may be well to wait until its operation is there tested, before introducing it into the other parts of the building. If it be found equally reliable and certain as the Gardiner apparatus, and no more liable to derangement or accident, the committee are of opinion that the change ought to be made as a matter of economy. But they recommend that the subject be referred to the Superintendent of Public Buildings and Grounds, and the Architect of the Capitol, and that action be deferred until the results of the experiments they may make or require shall be known; and that, if any appropriation is made, it shall be expended or not according to their decision.

The committee append to this report the report made in the Fortieth Congress by the Committee of Accounts on the lighting of the gas by electricity.

HOUSE OF REPRESENTATIVES,
Washington, D. C., February 25, 1871.

DEAR SIR: The Committee on Ventilation, &c., request answers from you to the following questions:

1. What has been the approximate cost of apparatus for lighting the gas in the dome of the Capitol and the hall of the House of Representatives?
2. What has been the cost of operating the apparatus since its introduction?
3. What are the elements of loss or waste in its use, if any, and what proportion do they bear to the whole expense?
4. Are you acquainted with what is known as the Wilson apparatus for lighting gas-burners?
5. How does the first cost of the same compare with the cost of the Gardiner apparatus?
6. How does the cost of operating the Wilson apparatus compare with that of Gardiner's?
7. What is the comparative expense of repairs upon the two?
8. Suppose the expense of a new apparatus, according to the Wilson method, should cost not exceeding $15,000 for the rotunda and the hall of the House, and the expense of its operation should be reduced to the salary of a single electrician and almost a nominal expense for chemicals and battery, would it, in your opinion, be advisable to substitute such an apparatus for that now in use?

Please answer as soon as convenient.

Respectfully, yours,

T. A. JENCKES,
Chairman of Committee on Ventilation, &c., on part of the House.

General N. MICHLER,
Superintendent of Public Buildings, &c.

OFFICE OF PUBLIC BUILDINGS, GROUNDS, AND WORKS,
Washington, March 1, 1871.

SIR: I have the honor to acknowledge your letter of the 25th ultimo, respecting the apparatus for lighting the gas in the dome of the Capitol and halls of the House of Representatives, and requesting certain information in connection therewith. Presuming that you have retained a copy of the letter, I propose to answer your questions in the order in which they are asked, viz:

1. Original cost of apparatus for lighting the dome of the Capitol and hall of House of Representatives has been $35,718 37.

2. Cost of operating the apparatus since its introduction, $15,240 56.

3. Of the foregoing amount of $15,240 56 for operating, $9,976 76 was for salaries and $5,263 80 for chemicals and materials.

4. I am not well acquainted with the Wilson apparatus for lighting burners, but have seen the gas jets lighted in the halls of the Corcoran Art Building by this apparatus, and, in my opinion, it worked remarkably well.

5. The first cost of the Gardiner apparatus is given in the first answer at $35,718 37, and I have never seen an estimate for placing the Wilson apparatus in the localities referred to.

6. I am not acquainted with the cost of operating the Wilson apparatus, excepting so far as the agent informs me. It will be seen by the second answer that the cost of operating the Gardiner apparatus, which has been up about five years, averages about $3,048 11 per year for material and operating.

7. There are no data in my possession to enable me to answer this question. The repairs, if any, have been made by the Architect of the Capitol.

8. It will be seen by the figures already given in regard to the Gardiner apparatus, that, for the five years it has been in operation, the sum total, including the original cost of apparatus, maintenance, and labor, is $50,958 93. Presuming the cost of the Wilson apparatus not to exceed $15,000, as stated in this question, and for operating and material not to exceed what the agent states, the cost for the same length of time will be $21,250. There is, therefore, a difference of $29,708 93 in favor of the Wilson apparatus. In regard to substituting the Wilson for the Gardiner apparatus, I think before making the change it would be advisable to appoint a commission with a view of testing the relative merits of each.

It may be proper to state that the information relative to the cost of the Gardiner apparatus has been furnished by the First Comptroller of the Treasury up to March 1, 1867, and since the latter date to February 28, 1871, it has been taken from the books of this office.

Very respectfully,

N. MICHLER,
Major of Engineers U. S. A.

Hon. T. A. JENCKES,
Chairman of Committee on Ventilation
on the part of the House of Representatives.

ARCHITECT'S OFFICE, UNITED STATES CAPITOL EXTENSION,
Washington, D. C., February 27, 1871.

SIR: In reply to yours of the 25th instant, requesting a statement as to the cost of Gardiner's electric lighting apparatus, now in the dome and hall of Representatives, I have the honor to state that the apparatus for the dome cost about $26,000; that for the hall of Representatives, including the recent extension of the same, $11,000. In the foregoing amounts the sum of $2,000 is included for gas-pipe and services of gas-fitters.

I am not able to state the cost of operating this apparatus, or the element of loss, as these expenditures are under the control of General N. Michler, whom I have written, requesting the information desired.

I have some knowledge of the Wilson apparatus, but have not had any experience in its working. While I believe it is less costly to put in and to operate than the one now in use, yet I do not believe it would be wise to make any change, particularly in the dome, where there is no ventilation. The Gardiner apparatus has proved successful after years of trial. Owing to the platinum coils being red-hot for some time, there is a certainty of all the jets being ignited; while the other being lighted by a spark, if there should be many burners not lighted, there would be danger (in the dome) of the explosive mixture being formed, and serious consequences might ensue.

Very respectfully, your obedient servant,

EDWARD CLARK,
Architect.

Hon. THOMAS A. JENCKES,
Chairman Committee on Ventilation
on part of House of Representatives.

Memorial of F. C. Clark, agent, praying the substitution of Wilson's electrical lighter for the one now in use over the hall of Representatives and in the rotunda and dome of the Capitol.

To the honorable House of Representatives of the United States:

Your memorialist, fully believing that he is in possession of the most practical, durable, economical, and only instantaneous method in use for lighting gas by electricity, viz, Wilson's electric gas-lighter, the only plan in which the *electric spark* is applied to such a purpose, and in view of the fact that during the previous session of this Congress said Wilson's lighter was adopted for lighting the burners over the Senate Chamber, after a thorough comparison of its merits with those of the apparatus now employed over the hall of Representatives and in the dome and rotunda, viz, Gardiner's apparatus, your memorialist, therefore, as agent for said invention, being desirous of at once introducing the same in lieu of the Gardiner lighter, would respectfully ask your attention to a concise description of the two methods, and the comparative relation they bear to the following principles involved, viz, economy, durability, rapidity, and safety.

ECONOMY.—The Gardiner method consists of a Smee battery of one hundred and sixty cells, containing each six gallons of diluted acid, and two plates of amalgamated zinc, each 9 by 10 inches, and a plate of platinized carbon of the same dimensions. The igniting of the gas is done by applying the current of electricity generated by this immense battery to a coil of fine platinum wire, which is heated to a white heat. In no case are there more than thirty burners lighted at one time. This battery is in constant consumption during the sessions of Congress. The following tabular statement, compiled from the records on file in the Treasury Department, exhibits the annual cost for maintenance of the Gardiner apparatus for the fiscal years ending June 30, 1867, 1868, and 1869. There is also considered in the statement the number of times the hall of Representatives and dome were lighted, the number of burners to which the apparatus was applied, and average cost for lighting each:

	No. of burners.	No. of times lighted.	Annual cost.
Fiscal year ending June 30, 1867	1,075	33	$2,652 72
Fiscal year ending June 30, 1868	1,243	24	3,321 99
Fiscal year ending June 30, 1869	2,193	47	3,959 80

Average cost per night in 1867		$80 38
Average cost per night in 1868		138 41
Average cost per night in 1869		84 25
Average cost for each burner, each time lighted, in 1867		07.5
Average cost for each burner, each time lighted, in 1868		11.1
Average cost for each burner, each time lighted, in 1869		03.8
Total cost for three years	9,934 51	
Average cost for one year	3,311 50	
Average cost for lighting each burner, each time lighted, during three years.		05.9

In addition to the cost of the maintenance of this apparatus for the three years above specified, there is justly chargeable the cost of forty cells of battery, which were consumed within that time. The number of cells originally purchased by the Government, in 1866, was two hundred. There are now but one hundred and sixty. Their cost was $46 06 per cell; total cost for forty cells consumed, $1,842 40. Adding this amount to the $9,934 51 stated above, the total cost for the three years is $11,776 91
Average cost for one year 3,925 64
Average cost for lighting each burner 07

The Wilson method employs a battery of but twelve Smee cells, of much less dimensions than Gardiner's, in connection with the induction coil. The battery is so arranged as to be in consumption only for the few moments actually employed in lighting; the plates, by mechanical device, being immediately removed thereafter from the acid, thereby rendering the annual cost for maintenance merely nominal.

DURABILITY.—The items of expense for maintenance of Gardiner's apparatus disclose great lack of durability, requiring the services of an electrician and assistant, both experts, to operate and keep it in repair, whose pay amount jointly to $2,295 per annum.

The platinum coils, in order to perform their office, are located in the hottest portion of the flame, and also where the utmost chemical action takes place, consequent upon the peculiar heat-generating property belonging to that metal; thus decomposition rapidly ensues, requiring their frequent renewal to an extent not less than 10 per cent. during and after each session of Congress, and, being of about the same value as gold, entails a large item of expense. The coils are also liable to be destroyed by an overcharged battery, and from the want of uniformity in the length, thickness, and quality of the wire to be heated.

The Gardiner apparatus is not and cannot be a reliable lighter, for the reason that it depends upon a *continuous circuit*. The destruction of any one of these platinum coils comprising parts of the circuit renders it impossible to ignite any one of the burners; and almost invariably this defect is not discovered until it fails to perform its office. Then, too, the nicety of their adjustment renders them constantly unreliable, both from contraction and expansion, and from the dusting and cleaning always necessary.

Wilson's lighter, on the contrary, depends upon *breaks in the circuit*, the electric spark leaping from metallic points into the burner. Hence the extreme care which is required in the Gardiner method, to preserve an unbroken circuit, is avoided; the least possible break under that method rendering his battery powerless.

RAPIDITY.—The Gardiner lighter is a *slow* method of lighting, not only on account of the limited number of burners which can be ignited at one time, but also from the fact that it requires a full and uniform flow of gas; for while the air contained in the pipes is being expelled, the wires are kept cool, and until it all escapes they will not ignite, thus requiring considerable time for lighting.

The Wilson lighter is instantaneous; the spark can be transmitted from burner to burner, through the entire circuit, at least one hundred times per minute, igniting the gas the moment it is emitted from the burner, no matter how small the quantity.

SAFETY.—The Gardiner lighter entails great waste of gas, endangering both the health and safety of those wherein it may be operated. The gas is turned into a pipe containing several sections of burners, which must be lighted in turn, in consequence of which there must necessarily be a very great amount of gas emitted unburned, before the battery can be applied to all; a considerable quantity of gas being also lost during the expulsion of the air from the pipes, as the coils are then being cooled, and ignition is impossible until a full flow ensues, as hereinbefore shown. These facts demonstrate the necessity of lighting up a long time before required for use, in order that the escaped gas should work off; thereby a great and additional expense is incurred. A careful observation of the length of time required in the operation of lighting shows a waste of gas, in value not less than $4 80, which, properly, should be added to the annual cost, heretofore shown.

Probably not the worst feature of this waste is the vitiation of the atmosphere, which all therein engaged have to breathe, as there is in this method, under the most favorable circumstances, a great escape of gas, arising from so great a number of burners being so tardily lighted, and, as the lighting process is frequently performed during the sitting of the House, the possibility of explosion is a subject of the gravest importance, the disastrous result of which can only be estimated. Comparing the relative strength of ceiling and roof, in all probability the force of an explosion would precipitate the entire glass panneling into the hall below. It is a fact well known in chemistry that a highly explosive mixture is produced by a combination of 15 to 20 per cent. of coal gas with atmospheric air; therefore any plan necessitating an escape of gas for four or five minutes, from so many burners in so confined a space as that in which they are located, would make an explosion not only possible, but probable. This danger would be greatly increased, in fact, rendered almost inevitable, should there be a simultaneous destruction of coils in two or three of the sections of burners, in which event all on those sections would fail to ignite, and the gas flow until it be lighted by other means.

The Wilson lighter entails absolutely NO WASTE OF GAS. There being no circuits to break, nothing about its paraphernalia of a destructible character, the performance of its office is inevitable, the sparks of electricity being transmitted through the burners many times each second, ANTICIPATING the flow of gas. The ignition would be instantaneous, however, if the gas reached all the burners at the same instant.

Your memorialist would respectfully submit that all the difficulties which are, sooner or later, sure to arise in the use of the heated platinum wire, are overcome by adopting the electric spark generated by the induction coil used in connection with a few small cups of Smee's battery, which constitute Wilson's lighter. This arrangement will do the work of the 160 cells, as now applied by Gardiner. The only part that can wear out is the battery; and as 160 pairs of plates, other things being equal, wear out just as soon as 12 pairs, by such a reduction in the number of plates used, and in the time of their employment, the expense of keeping a battery in operation is almost annihilated.

Your memorialist would respectfully call the attention of your honorable body to the fact that, upon the request of the chairman of the Senate Committee on Public

Buildings and Grounds, Professor Joseph Henry made a report upon the relative merits of the two lighters, highly favorable in its terms to the Wilson method. He would also refer you to the following extracts, taken from a report of a commission, appointed 31st of October, 1865, by the Secretary of the Interior, composed of Professor Joseph Henry, Charles G. Page, and James H. Simpson, lieutenant colonel engineers United States Army, to examine and report upon the Gardiner apparatus, now used in the Capitol. Said report, dated 26th April, 1866, is now on file in the Interior Department; and also would beg leave to submit, as evidences of the stability and economy of the Wilson apparatus, the following testimonials, selected from many of like character, furnished him by the proprietors of buildings in which the lighter has been for years, and is now, in practical operation.

The lighter has been recently introduced into the Corcoran Art Building, of this city, to the entire satisfaction of the founder:

Extracts from the Henry, Page, and Simpson report.

"To heat to redness a single fine wire of platinum, such as is used to kindle a gas jet, requires but a very small quantity of electricity; but when the same current is used to heat, simultaneously, a large number of wires, the power required necessarily increases in a geometrical ratio—a consideration which, in the opinion of the commission, ought to have militated very much against the choice of this method.

"The electrical power which has been provided for kindling the gas in the dome, and operating the stop-cocks, consists of 200 large glass jars, each containing six gallons of diluted acid, and two plates of amalgamated zinc, each 9 by 10 inches, and a plate of platinized carbon of same dimensions. The power of this apparatus is derived from the combination of the zinc and of the acid, in which process both the zinc and the acid are continually consumed. Even the platinum wires, under the operation of an intense galvanic current, are dissipated in the form of a fine powder, and in time will also require renewal.

"The cost of supplying the materials constantly consumed in the batteries will, according to the prices which have been charged in the accounts submitted to the commission, amount at least to $2,500, and if to this is added the salary of an electrician, competent to repair and adjust the work, as estimated by Mr. Gardiner, at $2,500, the annual expense will be about $5,000.

"The commission have witnessed, on two occasions, the kindling of the gas by means of the electrical apparatus, and find, contrary to what they were led to suppose before examining the arrangements, that all the jets are not lighted at once, as it were, by a single flash, but in sections of about 30 at a time, so that from 10 to 15 minutes are required to complete the illumination of the dome, and in both cases several of the jets were not ignited upon the first application of the electric current, from which it is inferred that the platinum wires are liable to displacement, and it is evident that, from their present exposure, it will be difficult to guard against such a contingency.

"In this connection it is proper to state that, however interesting the exhibition may be of the instantaneous lighting all the jets by a single discharge of electricity, or in rapid succession by means of the flash tube, caution should be used, previous to definite experiments on this point, in opening at once all the stop-cocks, since an accumulation of gas in the tholus, or any portion of the dome, to the extent of from 15 to 20 per cent. of the volume of atmosphere, would form an explosive mixture, and endanger the whole structure."

TESTIMONIALS.

"HARTFORD, CONN., *February* 3, 1870.

"It is now eight years since Allyn's Hall has been lighted by Wilson's electric gas-lighter; it has been in constant use for at least four nights in each week during that period, and has given the most perfect satisfaction. The time saved by this method in lighting a large hall will essentially reduce the quantity of gas consumed, which would otherwise be suffered to escape during the time occupied in lighting up.

"It gives me great pleasure to assure you of the satisfactory results experienced from the continued use of your electric gas-lighter.

"JOHN ALLYN."

"NEW YORK, *January* 29, 1870.

"This may certify that the method of lighting gas by the electric spark, from an induction coil known as Wilson's patent, has been in use in the lecture-room of the Cooper Union for a number of years with the most complete success. Among its excellencies are the simplicity and comparative durability of its fixtures, the comparatively small battery power required to work the coil, and the certainty of its operation under ordinary care and attention. Its use for any time in any public hall or lecture-room will render it almost an indispensable necessity, as it is now regarded here.

"CHARLES S. STONE,

"*Professor Chemistry, &c., Cooper Union, New York.*"

"BOOTH'S THEATER, NEW YORK, *March* 31, 1870.

"The Wilson electric gas-lighter has been under my charge one year; it lights 900 burners in the auditorium, and has never failed once. The chandelier is turned off and relighted five times during the performance. It saves about $50 a week in gas. The expense for battery is $12 for one year. I consider it a perfect success.

"JOSEPH SCOLLEN, *Engineer.*"

"Wilson's method of lighting gas by the spark of electricity obtained from the induction coil of Rhumkorff is a most useful and ingenious application of electricity, and is now so generally known and highly appreciated as to require neither encomiums nor any description. I believe Mr. Wilson's method was original with himself, having been covered by a patent from the United States. I have mentioned Mr. Wilson's method, in connection with the induction coil, in my Physics, published in 1861.

"B. SILLIMAN,

"*Professor Chemistry, Yale College.*"

Your memorialist proposes to your honorable body to furnish for the hall of Representatives, dome, and rotunda, an apparatus of the most substantial character, and to apply it in the most workmanlike manner, for the sum of fifteen thousand dollars, ($15,000.)

Very respectfully, your obedient servant,

F. C. CLARK, *Agent.*

MR. GARDINER'S STATEMENT.

To the Hon. THOMAS A. JENCKES,
Chairman of Committee on Ventilation:

I would respectfully submit for your consideration the following statement as a partial answer to the memorial of F. C. Clark:

Mr. Clark asserts in his memorial that the Wilson lighter was adopted by the Senate to light the burners over the Senate chamber during the previous session of Congress, after a thorough comparison of its merits, as compared with my invention. I can positively assert that no such comparison ever took place, as no member of the committee who reported the bill ever called on me for any information concerning my apparatus.

Mr. Bogart, for whose benefit the bill was reported, claimed to be the sole agent for introducing the Wilson lighter, and although I am aware there was some trouble between Mr. Bogart and Mrs. Wilson, widow of the inventor of said lighter, I cannot assert that the agency has been transferred to F. C. Clark, but would most respectfully suggest some inquiries be made as to who really is the agent for said lighter.

Mr. Bogart, in pressing the lighter on the notice of the Senate, claimed in his memorial as a fact that he would light all the burners in the Senate chamber at one flash, the same as Mr. Clark seems to claim he would do in the House of Representatives. But Mr. Bogart, in closing the contract with the architect, Mr. E. Clark, distinctly states that he will light each panel separate, the same as I now do in the hall. Mr. Clark would no doubt have to do the same thing.

The Wilson lighter has been taken out of the picture gallery of August Belmont, esq., for two reasons: first, it was a nuisance on account of the offensive smell from the battery used; secondly, it would not do the work as claimed for it. It has also been taken out of Cooper Institute, and has been abandoned by the proprietors of Steinway Hall as a perfect and complete failure, after giving it a fair test for three months.

The lighter was put in the picture gallery of Belmont by Messrs. C. T. & J. N. Chester, a firm thoroughly competent to do the work, and men who have had a large experience in all kinds of work where electricity is employed. It was put in the Cooper Institute by the inventor himself; and when they could not make it work successfully, it does not seem possible that Mr. Clark, who has had no experience in the business, could make it a success, more especially when there is at least five times the number of burners in the hall of Representatives that there was in either of the places named.

Mr. Bogart placed the lighter in both Steinway Hall and Booth's Theater, New York. In the hall it proves a complete failure; in the theater it misses from ten to thirty burners every night. That is the record of the success of Mr. Bogart in placing the Wilson lighter in working order.

For a report of the only complete and impartial test, as between the merits of the Wilson lighter and my invention, I respectfully refer you to the report of the board of managers of the American Institute, and the decision of committee appointed by the said board to decide on the relative merits, both the board of managers and the committee awarding me the two first medals and diplomas, after a test of seven weeks, during which time the models stood side by side.

But allowing the Wilson lighter to be a perfect success in lighting, (which I deny,)

by what right does F. C. Clark assume to put magnetic engines in his estimates, as for the purpose of turning on and off gas by electricity, when I hold five patents on the magnetic engines as used for that purpose, the first of which was granted in 1858, and for improvements as follows: 1st of May, 1864; 9th of June, 1866; 4th of September, 1866; 19th of February, 1867? I also hold the exclusive right to use lava tips, or any other insulating tips, as applied to gas-burners where electricity is used to light the gas; and that fact must compel Mr. Clark to use metal burners, the natural consequence of which would be their corrosion, the same as was the case with the flash-tube when used in the hall of Representatives. I refer you to House Report 31, second session Fortieth Congress.

Mr. Clark seems to lay considerable stress on the report of Professor Henry. Henry's report was never accepted by the Secretary of the Interior, being considered irrelevant to the object for which that committee was formed, viz: an inspection of the work as done by me in fitting up the dome by my invention.

Allow me to give you two reasons why the carrier or flash-tube was not employed in the lighting the dome:

To light the dome by the tube would require eight lines of 2½-inch gas-pipe running from the flooring to the different tiers, each line with stop-cock attached, which would be a most unseemly looking affair on the inside wall of the dome, and the corrosion that would inevitably take place in the nipples would cause an expense of not less than $1,000 per annum to clean. True, the carrier tube could have been touched off at the different tiers, but that would compel the operator to descend a rope to the first cornice—a rather dangerous operation, especially at night.

As to the durability of the platina coils, I have no hesitation in asserting that where they are inaccessible they will remain for years without requiring any renewals whatever; for instance, the old hall, where there are fifty-six burners in exactly the same condition and with the same platina tips that were placed there three years ago, the House of Representatives has not had but eighty new platinas during the time my invention has been used there, and every one of them was broken by the workmen employed there last summer. I have no hesitation in asserting that from three-fourths to nine-tenths of all platinas renewed in the dome have been rendered necessary by breakages caused by the laborers during the annual cleaning of the dome.

As regards the expense attending my battery, Mr. Clark has no doubt shown a large array of figures; but it happens they are not all chargeable to my battery. For the three years he takes as his basis the actual amount of acid used by me was $250 85 as against $459, charged by him; he also charges me with $1,842 40 for forty cells of my battery, which he says have been consumed, but which I am happy to say are still in my charge, less a few of the jars broken. The only reason that I do not use the two hundred cells is, that I find one hundred and sixty quite enough to do the work. I do not think the salary of myself and assistant can be charged as material, which would make a considerable difference in the annual expense, as, no matter what method of electric gas-lighter is used, it is imperative to have an electrician to take charge of it.

All the material actually used in my battery amounts to $2,038, making an annual average of $509, as the material has actually lasted four years up to November, 1870, and will last from two to three years more. All of which I respectfully submit to your consideration.

SAMUEL GARDINER,
Electrician.

MR. GARDINER'S STATEMENT—No. 2.

Hon. THOMAS A. JENCKES, *Chairman of Committee on Light, &c.:*

DEAR SIR: I will only make a few remarks in addition to my statement already before you, and will make them as brief as possible. In the statement of F. C. Clark, that I placed my electric gas-lighting apparatus in the Broadway Theater and that it was a failure and abandoned, I will state to you that I placed it in the Broadway Theater, and that it worked every night with perfect success, never having made a failure, and the apparatus remained in said theater until the building was taken down to make room for a block of fine stores. I will refer you to C. S. Marshall's sworn statement as to its perfect success. (Certified copy from the Commissioner of Patents, marked A.)

Mr. C. S. Marshall was the proprietor of the Broadway Theater until the building was taken down. As for F. C. Clark's statement that Mr. Chester employed me to put the electric gas-lighting apparatus in August Belmont's picture gallery, and that I had operated the same, is not true. The Wilson electric-spark apparatus was placed in August Belmont's gallery in Fifth Avenue by the Messrs. Chesters. I had never been in Mr. Belmont's house until Mr. Chester invited me to go with him to see the workings of the Wilson apparatus. The Chesters lighted it up; a number of the burners missed to ignite; they were carefully adjusted and another trial was made, and

others again would fail to light. Mr. Chester then informed me that it had been in operation several weeks, and at times he would succeed to light all the burners, and then again a portion would not ignite. I informed Mr. Chester that Mr. Wilson, the inventor, had the same trouble, viz: the difficulty of insulation and the changes of the temperature would cause the spark to take various directions, and that the same adjustment would not answer in all temperatures. Mr. Chester informed me that he had more trouble with it than it was worth; that he had already expended more money than he was to get for it, and wished me to take it off his hands and introduce my apparatus. I declined to do so, and never put my electric gas-lighting apparatus in August Belmont's gallery, or ever worked the Wilson lighter in said gallery. It was a perfect failure in Belmont's gallery, and Mr. Belmont ordered it taken out, which the Mr. Chesters did, and did not receive one dollar for their trouble. I will refer you to Mr. August Belmont's letter of February 9, 1871, marked B.

In regard to Steinway Hall, the Wilson patent was placed in said hall two or three years since, and they had it in operation some three months; it failed so often to light the burners, and so much trouble to keep it in order, that it was abandoned after three months' use as a perfect failure. I will refer you to letter of Mr. Bartlett, dated New York, February 3, 1871, marked C.

Booth Theater: the Wilson spark-lighter has been introduced, and it fails every time it is lighted to ignite all the burners, and hand-lighting has to be resorted to. Refer you to letter marked C.

At the Cooper Institute, where it was placed by Mr. Wilson himself, it was used for a time, and it failing to light the large number of burners required, was taken out and a portion of the apparatus was placed in the lecture-room of Professor Stone, in same building, where, under the management of Mr. Stone, with a small number of burners required to be lighted, makes it answer his purpose. The Music Hall, New Haven, often fails to light all the gas-burners, and on several occasions some of the burners remain unlighted all the evening.

As regards my electric gas-lighting apparatus, it was placed in A. T. Stewart's house, New York, some three years since, and has always lighted the burners with perfect success, there being some three hundred and twenty-five gas-burners in his picture gallery alone, Mr. A. T. Stewart being so well satisfied with it that six months after he closed a contract with me to put my electric gas-lighting apparatus in his store, corner of Broadway, Tenth street and Fourth avenue, lighting over two thousand gas-burners. One year and a half after I had finished his store, and having a successful trial all that time in lighting the gas in his store, Mr. A. T. Stewart closed another contract with me to extend my gas-lighting apparatus to his new addition on Broadway and Ninth street, which I completed over one year since, and is now in successful operation every night. I will refer you to letter marked C, dated February 3, 1871; also to certificates marked Nos. 5 and 6.

In the Academy of Music, New York, it was placed only to the border light, to produce a sudden effect on some scenery in Ullman's opera. It worked with perfect success until the close of his engagement, some eight months. The building was closed for over a year, and soon after the building was burned.

* * * * * * *

As regards the perfect success of my electric gas-lighting apparatus for the past five years, it is well known to all the members of Congress. It has never made a failure in the whole five years, and is now at this time working with perfect success. As regards the expense which Mr. F. C. Clark states, I have admitted that the zinc, carbons, quicksilver, platina tips, chloride of platina, and the larger portion of the acid is correct, which amount, taken for the average of five years, will not amount to over $500 per annum. F. C. Clark attempted to swell up a bill of expenses which did not belong or chargeable to the battery. In one case, where Mr. Edward Clark, architect, made a change of running the whole line of wire belonging to the dome in another direction, and where an entirely different kind of wire was used, and a large quantity was required, is charged to battery account; also where a change had to be made in the dome indicator to accommodate the lighting of the rotunda, that was charged to battery account; also a large quantity of glass globes furnished for the old hall of Representatives was charged to battery account. Cockroach powders, boxes of soap, and other articles were charged to battery account, which I have had nothing to do with, as I have said before that the sum of $500 is about the average cost of maintaining the battery for the last five or six years. I am sorry that so much of your valuable time has been taken up with this personal quarrel of Clark and myself. I have been obliged to defend my rights. I would be most happy to have the committee visit my department and examine for themselves the battery and the gas-lighting apparatus, as they will have the opportunity to see the magnetic engines, indicators, the electric lava-tip burners, and everything pertaining to the lighting gas by electricity.

Most respectfully, your obedient servant,

SAMUEL GARDINER,
Electrician.

Hon. THOS. A. JENCKES,
Chairman on Lighting and Ventilating the Halls of the Capitol:

TURNING ON GAS, ETC., BY THE AID OF ELECTRICITY.—Patented December 22, 1857.

The object of this invention is to control and regulate the supply of gas to burners by a mechanism operated by electricity.

The object of my invention is to bring the service or supply cock by which the gas is supplied to a number of burners that are to be lighted by electricity, to be opened or closed or made to regulate the supply to the said burners, under the control of a person at a distant part of a building or other place; and to this end my invention consists in furnishing the service or supply cock with a ratchet wheel, or its equivalent, to be engaged by a pawl or dog, or the equivalent thereof, attached to one end of a lever whose opposite end has attached to it the armature of an electro-magnet.

Claim.—I do not confine myself to the particular method herein described of accomplishing my object, but having thus described the construction and operation of my invention, I claim broadly turning on or shutting off inflammable gas by degrees or gradually, through the agency of electricity, for such purposes as are hereinbefore alluded to.

(Refer to patent dated June 19, 1866, for turning on and off gas.)

DIVIDING THE CURRENT OF ELECTRICITY.—Patent dated November 29, 1864.

There is great difficulty in lighting a large number of gas-burners by passing one continuous current of electricity through a number of platina coils, the resistance being so great that the galvanic battery could not act or generate the electricity to its full extent. I have found by experiment that to divide the current by having several smaller wires leading from the main conducting wire to several sections of gas-burners to be lighted, that I could light a much larger number of gas-burners by the same current of electricity generated by a galvanic battery. By actual experiment I have found that where I could light but ten gas-burners by having only one continuous current, by dividing the current into ten sections I could light one hundred gas-burners by the same current passing over the main conducting wire from the galvanic battery. It makes no difference if the connection of the several smaller wires are brought in connection with the main wire at the switch, the result is the same.

I claim dividing the current of electricity generated by a galvanic battery into several circuits, as herein specified, for the purpose of lighting a large number of gas-burners by electricity.

GENTLEMEN OF THE COMMITTEE: You will see at a glance that my claim for turning on and off gas through the agency of electricity is broad. If, as has been suggested, that other power would be used to turn the gas-cock, you will see that the parties would have to infringe upon my patents, as they could not bring the other motive-power into action for the purpose of turning on or off the gas without the agency of electricity. You have my several patent papers before you, and any other information you may require please send for me, and I will be most happy to give it to you.

Respectfully, your obedient servant,

SAMUEL GARDINER,
Electrician.

Hon. THOS. A. JENCKES,
Chairman of the Joint Committee on Ventilation:

Mr. Gardiner's reply to my memorial seems directed, so far as the claims made for the superiority of the Wilson lighter are concerned, entirely to those alleged to have been put forward at some past time by Mr. Bogart, my predecessor in the agency for this apparatus. In doing so he said that Mr. Bogart had declared before the Senate Committee on Public Buildings and Grounds his ability to light *all* the burners by one flash, but that after the appropriation was made, and Mr. Bogart came to make his contract, he was unable to conform to his alleged declarations, and contracted to light but a square at a time, just as he, Mr. Gardiner, did now.

He also denies my statement that the Wilson lighter had been adopted by the Senate after an investigation of the merits of both methods. I would, as confirmation of my representations, and as a denial of Mr. Gardiner's statement, call the attention to a brief recital of the facts relating to this point.

During the first session of the Forty-first Congress, Mr. Gardiner caused a resolution to be offered in the Senate asking for an appropriation to enable him to extend his apparatus to the burners over the Senate chamber. This resolution was referred to the Committee on Public Buildings and Grounds. Soon thereafter Mr. Bogart memorialized the Senate, asking for an appropriation to put in the Wilson lighter, which was referred to the same committee. They were, in consequence, both before that committee. Mr. Gardiner and Mr. Bogart both appeared and urged their respective claims, and finally, on the 13th day of July, 1870, the following debate upon the report of that

committee upon the subject took place in the Senate, as taken from the Globe of that date.

"Mr. MORRILL, of Vermont. I am directed by the Committee of Public Buildings an Grounds to report the following amendment:

"'For materials and putting up the Wilson Electrical Gas-lighter in the Senate chamber, $4,500: *Provided*, The same can be done under the control of the Architect of the Capitol Extension during the recess, and at an expense not exceeding the amount herein appropriated'

"I will state that the committee have fully examined this matter, and I think the operation here was exhibited to most Senators. There is no question about the rapidity of the lighting, or the saving of gas, or about its being less dangerous from explosion.

"Mr. NYE. I simply wish to say that I am informed by the electrician, who lights the other House, that the whole building can be lighted just as well from his apparatus, and at a very small expense. It seems to me it would be better to have the whole thing under one head instead of having it under two heads.

"Mr. MORRILL, of Vermont. It will not cost $5 to keep this in repair. For the other it requires a master workman and a journeyman. It has been tested recently in this city in Corcoran's Gallery, and I believe there is no sort of doubt as to its being an improvement on the process used by the House of Representatives.

"Mr. NYE. Will it cost any more to let the present electrician, who lights the other end, compete for this?

"Mr. MORRILL, of Vermont. Until competed with, he wanted more. He wanted $10,000 until this man offered it for less, and then he agreed to take something less.

"The amendment was agreed upon."

It is simply impossible that Mr. Gardiner's statement can be correct in the face of these proceedings, and furthermore, as the letter heretofore referred to by me as given to that committee by Professor Henry, now on file with that committee, treats of the two methods comparatively, thus showing that the committee considered both plans. Mr. Gardiner furthermore declared himself to me verbally, several weeks prior to the making of the appropriation, that he was confident of success.

Now, as to what Mr. Bogart's representations were before that committee, I know not, nor is it pertinent here. Mr. Gardiner's whole argument on this point appears to be devoted to tearing into tatters a person who is not before the committee nor any of the representations made by that person on behalf of the Wilson lighter; furthermore Mr. Gardiner, knowing that he is not here, or his representations, at least the only one alleged to have been made by Mr. Bogart, viz, "his ability to light *all* the burners by one flash," has endeavored to connect them to me by assuming he supposes that I propose to do the same thing. I will merely say to him that Mr. Clark has not proposed to do anything of the sort; that what he has proposed to do is to simply light all the jets so soon as the gas is emitted from them in sufficient quantity to ignite, and to do it in an economical manner. Whatever Mr. Bogart may have declared his ability to be on this point, I know not, but it seems he was able to demonstrate the superiority of the Wilson lighter to the satisfaction of the entire committee and the Senate.

I do not propose to occupy the time of the committee needlessly, but propose to briefly refer to a few statements made by Mr. Gardiner at issue with the facts.

He has declared that Wilson's lighter has been "put out" of August Belmont's picture gallery, Steinway's Hall, and Cooper Union, because of inefficiency and smell from the battery; so far as the smell of battery is concerned, Mr. Gardiner is well aware that the style of battery applied to Wilson's method is identically the same as used by him, only much smaller in size; and I would, in all conscience, ask what force there is in such an argument, even if it existed in fact, so far as it would operate in this building, where he has one hundred and sixty cells of six gallons where we would have but twelve of less number of gallons? But I will state to the committee that which Mr. Gardiner does *not* know, this battery can be, and is, under our process, rendered perfectly inodorous, as can be demonstrated at the Corcoran Art Gallery. The facts in regard to the Belmont picture gallery are these: Wilson's apparatus was put there by the Chesters, of New York; they put Mr. Gardiner there to arrange or work it; the result was, as might be foreseen; Wilson's apparatus went out, Gardiner's went in; neither are there to-day. Steinway had Wilson's apparatus, but it was not put out for any other cause, as explained to me by Mr. Steinway himself, but because, unknown to them, the janitor had neglected the battery, and owing to the battery having been put near the roof, where it was affected by the frost, and also immediately thereafter they raised their roof, and that the apparatus was not thereafter re-affixed to the burners; that they had proposed to re-attach it.

As to the Cooper Union, the Wilson lighter is still in that building; it was originally put in the large hall of that building in 1859; it continued there until 1862; was then taken down from the burners there, and attached to the burners of the chemical lecture-room, where it has operated ever since, and is now; the cause of the change was the desirability for use before the classes of the unusually fine induction coil belonging to it.

Mr. Gardiner carefully avoids every reference to the fact that his lighter has been in other places than in this Capitol and in A. T. Stewart's, New York; or that it has been abandoned for inefficiency. It was in Broadway Theater, New York; was not used after a short period; it was in the Academy of Music, New York; was taken out; it was in Belmont's gallery, the house of Captain West, of this city, in Chicago, Illinois, where it was abandoned, after great expenditure of time and money in endeavoring to obviate its faults of want of reliability, durability, and its excessive expense; besides in other places which I might mention; and the fact stands out, save only behind the General Government and the princely income of Mr. A. T. Stewart, does it exist to day, and I will add here that I expect by return mail an affidavit of John Kellum, architect, who has in charge all such matters belonging to the business of Mr. A. T. Stewart, (a testimonial from whom was read by Mr. Gardiner,) to the effect that he was only debarred from contracting with Mrs. Wilson's former agent for her lighter for Mr. A. T. Stewart's new store, in lieu of Gardiner's, now in use, because of the agent's exorbitant price. I will add, also, that upon Mr. Kellum's attention being called to the testimonial read by Mr. Gardiner, he expressed great surprise, and said he would much like to see the original before admitting that he had signed such a paper.

But Mr. Gardiner, in enumerating the two solitary instances in which the Wilson lighter is not operating, avoids any reference to the Boston Theater; Peck's Music Hall, New Haven; Allyn Hall, Hartford; Cooper Union chemical lecture-room; Corcoran Art Gallery, Washington; where it has operated covering a period from eleven years to six months; but he does declare, as regards its operation in Booth's Theater, New York, that forty burners fail at a time upon the chandelier, a statement unsustained by any attempt at evidence in the face of the declarations of Mr. Edwin Booth and his gas engineers.

Mr. Gardiner attacks the metal burner used by Wilson, because of alleged corrosion and expense. I will say that this burner, so far as regards the tip from which the gas exudes, is in no respects different from the common metal burner in general use in buildings of all kinds, both large and small. Scores are used where one lava-tipped is used, and have been, doubtless within the knowledge of your committee, without the evils attributed to them by Mr. Gardiner. He has offered as corroboration of his statement the report of the Committee on Accounts of House of Representatives. I will call the attention of the committee to that report. * * * It will be seen that the remarks therein refer solely to the small nipples of the traveler tube, then used for igniting the service burners, the capacity of which was, with three small orifices, only one cubic foot per hour, and in no way referring to the regular metal service burners used for illuminating.

Mr. Gardiner alleges that the Wilson spark is inoperative in a draught. In reply I would say that probably no severer test can be offered than that of the lights in a theater, the draughts caused by the rising of the curtain being greater, probably, than elsewhere. Wilson's lighter has triumphantly vindicated itself in this respect in the two largest theaters in this country. I would ask which would probably be the most likely to be affected by a draught, a fine, heated wire, or the irresistible spark produced by an induction coil?

As regards the expense for maintenance of his apparatus, Mr. Gardiner has utterly failed to meet my statements save by the bald assertion that all the material charged in the certified statement furnished were not all for the Capitol apparatus. I would ask him what apparatus were they for. Look at the items. Are there any objects in this building to be paid for out of appropriation for the support of this apparatus that require acids, quicksilver, platina coils, chloride of platinum, zinc plates, carbon plates, battery jars, insulated copper wire, insulators rubber and clay, binders? For these kind of materials the statement of expense I have submitted, certified by the signature of the Secretary of the Treasury and the seal of that Department as a true copy of the vouchers, shows that for the three years acid cost..... $588 38

Mr. Gardiner asserted but $250.

Quicksilver	235 33
Glass battery jars	268 35
Amalgamated zinc plates	705 30
Platinized carbon plates	355 45
Platinum coils	315 00
(Yet Mr. Gardiner said but eighty had been replaced; this $315 was for 315 tips.)	
Brass binders	30 00
Chloride of platinum	82 00
Insulators, rubber and clay	75 00
Insulated copper wire	491 35
Sundries, such as tools, freight, &c	90 61
Total	3,236 77

Yet Mr. Gardiner says the materials cost in the three years but $1,800. I challenge him to show an item of that certified statement that was not obtained upon his requisition. General Michler is not in the habit of getting material for one thing and charging it to another. In addition to the above, $217 15 has been paid during that period for cleaning the apparatus. I take it that there is no going behind the certified documents. I will conclude this point by saying that Mr. Gardiner has not attacked the Wilson method on this score, and that yet, in the face of these figures, readily obtained, the Committee on Accounts, in 1868, were made to say that the apparatus "had cost in the way of repairs but $60 per annum."

I shall trespass but a few moments longer on the patience of your committee, but beg leave to touch upon the subject of right to turn on gas by electricity, which Mr. Gardiner claims he has the sole right to do. I will not dilate upon this point, but be content to submit the papers and letters-patent to your honorable committee, feeling confident that you will correctly judge upon that point.

One other point and I am done; it is this: Mr. Gardiner has submitted as rebuttal of the Henry, Page, and Simpson report, a report made by Shaffner, Pike, and Knight, stating that the Henry report was ignored by the Secretary of the Interior, Mr. Harlan, because it went further than was intended. I do not doubt it did go further than Mr. Gardiner wished it, as the sequel proved. The facts are these: the Henry report was not ignored by Secretary Harlan, but was filed in the Interior Department; it caused a stoppage of Mr. Gardiner's claim; an investigation of certain matters connected therein, by Dr. Page, through the orders of the Secretary of the Interior; it eventuated in cutting down his vouchers some $6,000 or $7,000. I herewith offer to the committee certified copies of the correspondence on the subject. Now for the Shaffner report: It will be observed the Henry committee was appointed by the Secretary of the Interior; the Shaffner committee was appointed by Mr. B. B. French, then Commissioner of Public Buildings and Grounds, and was essentially a white-washing affair. Mr. Shaffner testified under oath, very unwillingly (a certified copy of which I have sent for to the court in New York, and will doubtless receive in the course of a couple of days, and propose to place in your hands) that Mr. Gardiner appealed to him to sign this report, because the Henry report had stopped his money; that he, Shaffner, did so after great importunity; that he had never met any committee to view the apparatus; that the report was drawn up by the third man on the report, Mr. Knight, who was Mr. Gardiner's attorney; the other man, Nicholas Pike, he did not know. As to the premium at the Institute fair, upon which Mr. Gardiner has laid so much stress, I will merely say that at a former exhibition of the two methods, during the life of the inventor, before the same Institute, Mr. Wilson took the prize, viz, a gold medal. I conclude by expressing my thanks on behalf of Mrs. Wilson, as well as myself, for the courtesy and kind attention of your honorable committee.

Very respectfully,

F. C. CLARK.

APRIL 4, 1868.—Mr. Broomall, from the Committee on Accounts, made the following report:

The Committee on Accounts, who were instructed by resolution of the House of February 22, 1868, to inquire into the expediency and the expense of causing the gas over the hall to be lighted by electricity, from the battery now used for lighting the rotunda and dome, make report.

The mode of lighting the gas over the hall now in use is this:

A pipe called a carrier tube, about one inch in diameter, in which are inserted at intervals of an inch small jets or burners passes the burners which light the hall, and when fire is communicated to the jets at one end, it passes from jet to jet and lights the burners.

The proposed mode is to put a wire in the place of the carrier tube and connect it with the galvanic battery used for lighting the dome, so that the electricity being communicated to the wire will immediately light the burners as soon as the gass is emitted. After careful investigation the committee are of opinion that the following advantages will result from the proposed change:

1. The expense of keeping the carrier tube and jets in order will be saved. This expense is shown to the satisfaction of the committee to be about $800 or $1,000 a year. There are 9,670 jets or small burners in the carrier tube. To prevent the extravagant use of gas, these jets are very small, eight of them emitting about a cubic foot of gas per hour. By the decrease of the size of these jets, their liability to become obstructed and out of order is increased. The obstruction of a single jet frequently stops the progress of the fire. Two jets together obstructed almost always stops the

communication. Hence, the jets require frequent cleaning and removing. This constitutes the great item of expense attending it.

The annual cost of the proposed substitute will be very little.

The entire expense of the similar apparatus for lighting the rotunda and dome in the way of repairs is about $60 a year.

2. The waste of gas during the time required to light by the carrier tube will be prevented and the amount used by the carrier tube saved.

The time occupied in lighting is about ten minutes. The amount of gas consumed by the 1,260 6-foot burners is about 6,000 feet *per hour*, and that used by the jets about 1,200 feet, making the amount used by both about 1,200 feet in ten minutes, costing, at the present rate, $4 20 per evening.

Assuming the number of evenings during which the hall is lighted to be thirty per annum, the number during the past year, and the expense saved on this account would be $136 annually.

3. Much of the gas discharged by both jets and burners during the time of lighting is not consumed, but, as every member of the House knows, is suffered to escape and pervade the atmosphere of the hall, rendering it for some time not only unpleasant to breathe, but very injurious to health.

4. By the present mode it is necessary for the person lighting the hall to remain in the place where the lights are during the time of lighting, to attend to the carrier tube, and prevent the flame from stopping by reason of obstructed jets.

This is not only pernicious to the individual so compelled to breathe the noxious atmosphere, but dangerous both to him and the occupants of the hall. The effect produced upon him is often that of partial insensibility, and the consequences of falling in such a place may be easily foreseen.

The recent accident by which a member and an ex-member of the House were injured by the falling of broken glass, was attributed to this cause.

These are the material advantages of the proposed change, and in the opinion of the committee they are sufficient to justify it.

If the proposed mode of lighting should be adopted, the committee would recommend other changes. The present burners are metallic, and hence liable to corrosion. Many of them are already so corroded as to require renewing; probably all of them will require it within the next year. The committee have examined the lava-tipped burners used in the dome, and are satisfied of their much greater durability than metallic ones, and of their entire freedom from corrosion. It is only while a metallic burner is new that its action is perfect—that the whole of the gas emitted is consumed, and consumed to the best advantage. The lava-tipped burners, on the other hand, remain the same.

From some experiments made by the direction of the committee, it has been shown that the horizontal direction of the present burners prevents, to some extent, the proper combustion of the gas, and hence fails to attain all the light of which the gas is capable.

These experiments have shown that twenty-two upright burners placed immediately over the large sash in each of the panels, will produce as much light as the twenty-eight horizontal burners placed as they now are.

By this change two hundred and forty-six burners may be saved, and counting six hours to the evening, and thirty evenings to the year, the amount saved would be about $137 per annum on this account.

Throwing aside the danger to health and life of the present mode, the committee are of the opinion that the actual saving of expense by all the proposed changes would be about $1,000 per annum.

The committee further report that the expense of changing the mode of lighting as proposed, and changing the burners and their position, will not exceed $6,600.

And they believe that this expense will be much more than compensated by the annual saving. On this account, and because the committee are satisfied that the proposed change will conduce to the health and safety of the occupants of the hall, they recommend the passage of the following resolution:

Resolved, That the Clerk of the House of Representatives be directed to cause the carrier-tube now used for lighting the burners of the hall to be removed, as well as the burners and the pipe in which they are inserted, and to cause a pipe furnished with lava-tipped burners to be placed in the most advantageous position over each panel, and to be so connected with the battery used for lighting the dome as be lighted therefrom.

Resolved, That the work be done under the direction of the Architect of the Capitol Extension, and that the expense be paid out of the contingent fund of the House: *Provided*, That the same shall not exceed $6,600.

OFFICE OF THE COMMISSIONER OF PUBLIC BUILDINGS,
CAPITOL OF THE UNITED STATES,
Washington City, October 17, 1866.

Mr. Samuel Gardiner, of the city of New York, electrician, was employed, by those having the authority to erect the dome of the Capitol, to light the same by applying his patent electrical apparatus thereto. He entered upon the work with all zeal and vigor, and completed it, so that, when the dome was so far finished as to require lighting, he was ready to light it. He did so, from base to tholus, to the admiration of all who witnessed it. His work was well, thoroughly, and elegantly done, and its operation was a complete, and, I may say truly, a wonderful success—the whole dome being lighted by the manipulation of keys, in a small passage on the floor of the rotunda, in not over three minutes.

Although entirely satisfied with the perfect result of Mr. Gardiner's work, I thought it best to have placed on file in this office the views and opinions of eminent electricians, and addressed notes on the 23d day of July, 1866, to Professor S. F. B. Morse, Colonel Tal. P. Shaffner, Professor Nicolas Pike, and Edward H. Knight, esq., well known to me as men eminent for their knowledge and study of the operations of electricity, and its practical application as a motive and illuminating power, asking them to examine carefully and thoroughly Mr. Gardiner's work, and make a report of their conclusions to me. They proceeded at once to make the examination, and concluded their labors in July, and have submitted a report, to a copy of which I attach this statement. Professor Morse, having left for Europe, has not signed the report, but I am assured, in the letter from Mr. Knight accompanying it, that he "has signified his acquiescence with the spirit of the report." He will probably add his signature on his return.

The report goes so fully into the details of Mr. Gardiner's work, and the manner of its operation, that I need add nothing more than my testimony to that of the committee, that "it deservedly attracts great attention from experts and intelligent casual visitors, from whom the effect of the manipulation of the keys elicits murmurs of applause."

B. B. FRENCH,
Commissioner of Public Buildings.

WASHINGTON, *July* 31, 1863.

SIR: In accordance with your request to report upon the character, efficiency, prospective durability, and cost of maintenance, of the apparatus for lighting the dome and tholus of the Capitol, we have to report that the work has been executed in a handsome and substantial manner, worthy of the people and the place, and is a credit to all concerned.

We take especial pleasure in commending the courage manifested by Mr. Gardiner in bringing his invention to the most crucial test which the country affords by lighting up an interior of the area and height of the Capitol rotunda, dome and tholus.

The gas-pipe connections consist of circles of burners at 45, 80, and 165 feet from the floor of the rotunda, and are furnished with 300, 325, and 425 burners respectively. In addition to these, a cluster of 90 burners is placed in the tholus, at a height of 264 feet from the floor, and, being 60 feet above the crown of the dome, is, of course, invisible from the interior, but is a beautiful object viewed from the Capitol Grounds, and visible at a distance of many miles.

The flow of gas at each tier and in the tholus is equalized by a regulator, and governed by a stop-cock, the latter being opened and closed by electro-magnetic engines in their immediate vicinity, worked from the battery, the central brain of the apparatus, from which ramifies the nervous fluid which vitalizes the motive agents and the illuminating coil of each of the 1,130 burners.

The battery occupies an elliptical room, 45 by 36 feet, and consists of 200 glass jars, of a depth and diameter of about 13 inches, containing two zinc plates, 9 by 10 inches, weighing 6 pounds each, and an interposed carbon plate, all supported by suitable insulators in the acid bath. It is disposed on benches in concentric series in the room, and arranged in sections of twenty jars each, to be brought into service as required.

The connections consist of five miles of No. 10 copper wire, doubly wrapped with linen yarn, and, when necessary, encased in India-rubber tubing. This is securely laid in protecting pipes or through passages drilled through the walls, the return circuit from the engines and the burners being made through the gas-pipes.

The burners used have an indestructible lava tip, which acts as an insulator, and each is provided with an insulated coil of platinum wire, placed on one side of the orifice, so as not to interfere with the free exit of the gas, which is lighted by exposure to the red-hot metal when the electric connection is made.

The tiers of burners are divided into sections of from thirty to fifty burners, each section having independent connection with the instrument; so that a tier being divided

into ten sections, it is lighted by a corresponding number of pulsations following the flow of the gas, which is turned on by the electro-magnetic engine belonging to and in the vicinity of the tier. The manipulation, which by successive pulsations operates the engines, makes the series of illuminating connections, and registers the work, is performed in a passage-way leading north from the floor of the rotunda, and perhaps 50 feet from the battery.

The electro-magnetic engines consist of a double helix with a sliding armature, on which is a latch-pawl, which operates a ratchet-wheel on the axis of the stop-cock. The operator, by a succession of electric connections, works the armature piston, and turns the plug of the stop-cock such a fraction of a revolution as is represented by the number of teeth on the ratchet-wheel.

The handsomely engraved dial-plate of silver has keys, eleven in number, and with a corresponding number of vernices.

The primary electric connection with the battery is made by a stud in the central key, which, by rotation, is made to bring such a portion of the battery into play as may be required, a vernice indicating the extent of battery connection, which takes place in successive sections of twenty jars.

The surrounding keys, ten in number, are equally divided between the duties of turning on the gas and lighting the same at the five levels for which the dial-plate and keys are adapted. But four of these are yet arranged, consisting of the tiers at the elevation of 45, 80, and 165 feet, respectively, and the tholus at 264 feet.

The fifth may be used for a proposed tier at the spring of the dome, or a circle to illuminate the picture, as you may desire.

Each gas-key has a dark and a light segment on its disk, which are exhibited at an opening in the dial-plate, in correspondence with the closed and open position of the stop-cock which governs the flow of gas at the tier represented by the said key.

Each lighting key has a pointer, which indicates on its vernice the extent to which the electric connection has been made in the sections of the tier to which it belongs.

The apparent column of light in the tholus is derived from 90 burners with reflectors and prisms, was designed by Mr. Gardiner, and has a beautiful effect.

The prospective cost of maintenance, so far as it consists in the waste of materials used in the 200-jar battery, may amount to 600 pounds of zinc, 80 pounds of mercury, and 50 gallons of sulphuric acid per annum.

So far as appears to us, the apparatus requires but proper ordinary care and attention to maintain it in effective condition, and the lighting of the burners can be more effectively and economically accomplished by the use of this apparatus than by any other appliance that has come under our notice.

The workmanship of the dial and appurtenances and the electro-magnetic engines is substantial and elegant, and deservedly attracts great attention from experts and intelligent casual visitors, from whom the effect of the manipulation of the keys elicits murmurs of applause.

Many doubts as to the ultimate success of the enterprise have arisen in the minds of persons quite familiar with the science, when the great amount and proximity of the metal in the iron dome was considered, and on account of other difficulties incident to the scale of the apparatus and connections; but these are happily set at rest, and the appropriateness of the exhibition of American enterprise in the nation's Capitol has given zest to the congratulations tendered to the inventor and contractor, Mr. Gardiner.

We have to report, in conclusion, that the work has been well done; its efficiency and practical performance leave nothing to be desired; its permanency may well be admitted, from the solid and honest character of the work; and the economy with which it performs its duty is beyond dispute.

Very respectfully,

S. F. B. MORSE.
TAL. P. SHAFFNER.
NICOLAS PIKE.
EDWARD H. KNIGHT.

Hon. B. B. FRENCH,
Commissioner of Public Buildings, Washington, D. C.

The United States Patent Office, to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the files of this office.

In testimony whereof I, Samuel A. Duncan, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this 8th day of February, in the year of our Lord 1871, and of the independence of the United States the ninety-fifth.

[SEAL.]

SAM'L A. DUNCAN,
Acting Commissioner.

CITY, COUNTY, AND STATE OF NEW YORK, *ss:*

C. S. Marshall, of Nos. 326, 328, and 330 Broadway, New York City, being duly sworn, says that he is by profession the manager of the Broadway Theater, New York; that he is generally acquainted with the various methods of practically employing galvanic electricity in the arts; that he has carefully examined a new method of lighting gas by means of electricity, invented by Samuel Gardiner, of New York City, which consists in an arrangement whereby on pressing a key the gas-cock is turned and a flow of gas admitted to the burner, while at the same time a current of electricity is made to pass through and heat a platinum coil located immediately above the aperture of the burner, and thus ignite the gas.

Deponent further says that he has adopted Samuel Gardiner's, jr., new invention of lighting gas by electricity in the Broadway Theater in the city of New York. It was put in successful operation in May last; the theater is lighted in thirty seconds instead of taking the time of two men one-half hour to do the same work; it is a saving of gas and time. Often in theaters and large public buildings the gas is turned off or blown out by a too strong current of air passing through the house; by pressing the key the whole is lighted again, without annoying the audience by sending out the gas-man with his torch to relight each burner.

Deponent further says that the general idea of lighting gas by electricity is not new; but, so far as his knowledge extends, the method employed by said Gardiner, viz, operating the gas-cocks by electricity and at the same time sending the current through a platinum coil above the burner, is new.

Deponent further says that by the common mode of lighting gas-burners in theaters and other public buildings there is always a large waste of gas, because many of the burners are so located that the gas must be caused to flow through a large number of them at once, while the attendant can only light them with his taper one by one. The air within the building is also rendered impure by the escape of gas while the attendant is passing around to light the burners.

Deponent further says that he regards said method of Gardiner's as a valuable, new, and useful improvement, and productive of highly important results; and, further, that this opinion is founded upon actual personal experiments with the invention of said Gardiner.

C. S. MARSHALL.

Sworn to before me this 5th day of December, 1857.

W. M. HOOPE,
Commissioner of Deeds.

CERTIFICATES.

WASHINGTON CITY, *March* 1, 1867.

This certifies that Samuel Gardiner's apparatus for lighting the dome of the Capitol with electricity has now been completed, and in successful operation for more than a year, and that the same has not failed when applied to the lighting in a single instance. The whole thing has worked to my entire satisfaction, and to the satisfaction of all in any way concerned in its use.

B. B. FRENCH,
Commissioner of Public Buildings.

WASHINGTON, *January* 9, 1869.

The electrical apparatus of Samuel Gardiner, esq., within mentioned, has worked with perfect success to my personal knowledge to this date. Since I gave the within certificate, the lighting has been extended to the rotunda and the hall of the House of Representatives, with equal success as the dome.

B. B. FRENCH.

ARCHITECT'S OFFICE, CAPITOL EXTENSION,
Washington, D. C., February 10, 1868.

SIR: It gives me pleasure to be able to state that your apparatus for lighting the gas-burners for illuminating the rotunda and dome of the United States Capitol, by means of galvanic electricity, has proved very successful, after a trial of nearly three years. Over thirteen hundred gas-burners are lighted in a few seconds, the operator being at the floor, while many of the burners are nearly two hundred feet from him.

The cost of maintaining the batteries, I must say, has been much less than I at first supposed it would be. I do recommend your method as being convenient and reliable, and admirably adapted to many purposes.

Very respectfully, your obedient servant,

EDWARD CLARK, *Architect.*

SAMUEL GARDINER, Esq., *New York City.*

HOUSE OF REPRESENTATIVES,
Washington, D. C., April 15, 1869.

SIR: I take pleasure in stating to you that your process of lighting the hall of the House of Representatives gives entire satisfaction to all, and I regard it as a great improvement.

Very respectfully, &c.,

JOHN BOYD,
First Assistant Doorkeeper, H. R.

Professor SAMUEL GARDINER, *Electrician, United States Capitol.*

NEW YORK, *February* 7, 1868.

This is to certify that Samuel Gardiner's electric gas-lighting apparatus has been applied to A. T. Stewart's house, corner of Fifth avenue and Thirty-fourth street, and it works with perfect success; the picture gallery alone containing no less than three hundred and twenty-five gas-burners.

JOHN KELLUM,
Architect, 811 *Broadway, New York.*

NEW YORK, *September* 18, 1869.

SIR: This is to certify that I have had charge of the electric gas-lighting apparatus placed by you in the store of A. T. Stewart, corner of Ninth and Tenth streets, Broadway and Fourth avenue, for one year, and that the same works with perfect success, lighting some two thousand five hundred gas-burners.

Yours, respectfully,

NATHANIEL H. ANDREWS,
Electrician at A. T. Stewart's.

Professor SAMUEL GARDINER.

CLERK'S OFFICE, HOUSE OF REPRESENTATIVES U. S.,
Washington, D. C., June 6, 1870.

DEAR SIR: It gives me pleasure to state that your method of lighting the hall of the House of Representatives, adopted some two years ago, has given entire satisfaction in all respects. It has cost the Government nothing whatever for repairs to gas-burners since the adoption of your improvement.

Very truly yours,

CLINTON LLOYD,
Chief Clerk House of Representatives United States.

SAMUEL GARDINER, Esq., *Electrician*

WASHINGTON, *February* 3, 1871.

DEAR SIR: It gives me pleasure to be able to state that your electric gas-lighting apparatus, as applied to the lighting of the hall of the House of Representatives, has been in successful operation for over two years, and has not, in a single instance, failed to light all the gas-burners in a few seconds of time, preventing, as heretofore, a bad odor of the escape of gas, and I am happy to recommend your process to the lighting of large halls and public buildings.

O. S. BUXTON,
Doorkeeper House of Representatives.

SAMUEL GARDINER,
Electrician, United States Capitol.

70 UNION PLACE, *September* 1, 1868.

DEAR SIR: I have examined the insulated copper wires which Mr. Gardiner proposes to use in your stores for lighting the gas-jets. In my opinion, they are of sufficient diameter to carry the electric current he intends to employ. They are also well insulated, so that no spark or current can pass through the insulating materials to cause fire; in other words, I consider them perfectly safe and durable.

I am happy to state, also, that nine years ago I first had the pleasure of showing Mr. Gardiner's ingenious invention at a lecture (given for the benefit of the church for the deaf-mutes) in the Academy of Music.

Since that time Mr. Gardiner has been wholly occupied in the business of lighting gas-jets by electricity. I question if any one has as much experience in this matter as himself.

I have the honor to remain your obedient servant,

R. OGDEN DOREMUS.

Mr. A. T. STEWART.

THE NITRO-GLYCERINE COMPANY,
LESSEE OF THE UNITED STATES BLASTING OIL COMPANY'S PATENTS,
Office, Nos. 78 *and* 80 *Broadway, New York, August* 31, 1868.

DEAR SIR: In answer to your questions, I briefly state my opinions, viz: A current of electricity produced by a Voltaic battery cannot escape from the wires (No. 16 insulated) shown me in sufficient quantity to ignite any substance used in the construction of buildings.

The samples of wire shown me, one insulated with gutta-percha and the other whip-covered, are the usual and only kinds used in America as reliable for electric conductors in houses.

I have seen your process for lighting gas by electricity successfully during the last ten years, and I am surprised that there should be a necessity for asking me any questions upon the subject.

Yours, respectfully,

TAL. P. SHAFFNER, *Electrician, &c.*

SAMUEL GARDINER, Esq.

NEW YORK, *February* 9, 1871.

DEAR SIR: In reply to your letter of the 7th instant, I beg to state that some years ago I had my gallery lighted by electricity, (whether by "Wilson's lighter," or some other patent, I do not now recollect,) but found that the apparatus would frequently get out of order from atmospheric causes and changes in the temperature. I have now the gas in my gallery lighted by torches.

Yours, respectfully,

AUG. BELMONT.

D. SMALL, Esq.,
218 *B Street North, Washington, D. C.*

NEW YORK, *February* 3, 1871.

MY DEAR SIR: Mr. Wheeler only received your letter last evening, and to-day he has handed it to me. I have called on Mr. Steinway and inquired as to his use and experience of the Wilson electric spark lighter. He was indisposed to give much information about it, but briefly stated he tried the plan a few years ago and abandoned it, on account of its imperfect working; said the burners were not always reliably lighted. I closed the conversation by asking him if he would like his hall lighted by electricity, if it could be done satisfactorily; when he replied he should. The strongest evidence of the failure of the Wilson plan of lighting, as tried by him, was in this response, that he would like a reliable method introduced. At Booth's theater there seemed to be a disposition to give no information, as I judged there was some law-suit going on, in relation to the Wilson patent and its use at that place. So much as this, however, I learned from the gas-man of the house, that the burners did not always light, and hand-lighting had to be resorted to to some extent. In an interview I had two weeks since with A. T. Stewart, he spoke of your plan of lighting, as now used by him, as entirely

successful, and said he had examined the Wilson plan, but did not approve of it. All concur in one opinion, that the least imperfection in the insulation of the wire used in the Wilson spark process will permit the spark to escape and frustrate the successful lighting.

Yours, truly,

ABNER BARTLETT.

Professor SAMUEL GARDINER, *Washington, D. C.*

Final decision and confirmation of the report of the judges in awarding to Samuel Gardiner the first premiums for the best and most reliable and practicable mode for lighting gas by electricity; an appeal having been made from said decision by A. L. Bogart, proprietor of the Wilson patent, to the board of managers of the American Institute, New York.

[Extract from the report of the judges in Department 6, Group 4, at the fair of the American Institute, held in the city of New York, October, 1869.]

REPORT ON THE WILSON PATENT—BOGART, PROPRIETOR.

No. 436.—"ELECTRIC GAS-LIGHTING APPARATUS."

This consists of a galvanic battery, Ruhmkorff's induction coil, and conducting wires, which are broken near the gas-jets so that an electric spark is produced by a charge of electricity leaping to the "tips" of the burners, each burner being insulated, and forming a part of the circuit. The ends of the wires from which the spark proceeds are covered with platinum to prevent their corrosion.

The use of the spark obtained from electricity of high intensity, induced by "Ruhmkorff's induction coil," is not nor was not novel to this apparatus for lighting gas. It involves the necessity of great exactness in the adjustment of the points of the wires at the gas-jets, and also in the insulation of the wires. When these have once been regulated they are very liable to become disarranged. In cases of rapid currents of air passing over the burner at the moment of the occurrence of the spark, it is obvious, as experiments have proven, that the gas fails to ignite. The peculiarities herein stated are the more prominent, which have led us to regard it as not the best known to us, but as second in class.

REPORT ON SAMUEL GARDINER'S PATENT—FIRST PREMIUM.

No. 963.—"ELECTRIC APPARATUS FOR LIGHTING GAS."

This consists of a galvanic battery, insulated conducting wires leading near the gas-jet, and joined or connected so as to complete the circuit, by small spirals of platinum wire adjusted over and very near the gas-jets of the burners, the tips of which are lava, and a circuit connector and breaker.

By this apparatus a current of dynamic electricity is established, which, in passing over the platinum spirals, heats them to a dull red, and thus ignites the gas.

The lava tips insure insulation of the platinum spirals from the metallic portion of the gas-burners. The form of electricity employed by this apparatus is easily confined to the conductors, so that the adjustment of the insulation is attended by no difficulties. The platinum spirals are placed immediately over the gas jets, insuring ignition, while during the burning of the gas they are within the cooler and deoxidizing part of the flame, which insures their durability for a long time.

This plan possesses more features of invention, is more reliable in action, and less subject to accidents or disarrangement than any other known to us; we, therefore, recommend a first-class premium.

D. D. PARMELEE, M. D.,
JOHN PHIN,
P. H. VAN DERWEYDE, M. D.,
Judges.

I certify the foregoing to be a true copy from the report on file.

JOHN W. CHAMBERS,
Secretary Managers.

[It appeared from a copy of testimony given by T. P. Shaffner, in a case in one of the courts of New York, that he affixed his name to the report printed on pages 15 and 16, while at the Hoosac Tunnel, in Massachusetts; that it was drawn by Mr. Knight; that, although appointed

on the committee by the Commissioner of Public Buildings, he did not meet with them; that he was not in Washington when it was prepared; that he did not know and had never heard of Nicholas Pike; that he never acted with the other persons named in making an examination of Mr. Gardiner's apparatus, but was tolerably familiar with it, as far as he could see from a distance, but did not go through the examination of the platina or the arrangement of the wires; that he signed the report because he wanted to help Mr. Gardiner, deeming him a very meritorious man who ought to be encouraged; that he thought some points of the report were "considerably roseated, a little colored," but that Mr. Gardiner ought, in his opinion, to be paid the money that had been held back on his contract on account of a counter-report against him, signed by Professor Henry, and he wanted to do what he could to get him the money that was due him.]

The following certificates were also filed by the petitioner:

BOSTON THEATER,
Boston, Massachusetts, February 17, 1869.

We take pleasure in certifying that Wilson's Electrical Gas Lighter has been in use at the Boston Theater during the last three years, and has given perfect satisfaction. It has never failed to light the chandelier during the whole time, and continues to work in perfect order. During the whole time it has been in operation it has not required the expenditure of a dollar for repairs. By its use, besides other advantages, it has caused a great saving of time, labor, and gas.

F. O. PRINCE,
President of the Corporation, in behalf of the Directors.
S. B. BOOTH, *Manager.*

BOOTH'S THEATER,
New York, September 14, 1869.

Wilson's Patent Electric Gas-lighting Apparatus, constructed for and applied to the whole number of jets contained in my theater, is worthy of my unqualified commendation. Having had for several years a knowledge of its utility, economy, and certainty in lighting the Boston Theater, I had not the slightest hesitation or misgiving in placing the gas jets in the best position for effectiveness, especially where the torch could not be made available.

From the opening night to the present, it has not failed to perform its office satisfactorily. Having the facility of *instantaneously* lighting the auditorium as well as the border lights of the stage, it enables the perfecting of scenes that could not be otherwise produced. It prevents the escape of gas and consequent fouling of the atmosphere. It is also a great economizer of gas, as the general lighting is done preparatory to the opening of the house, or the borders lighted until a moment before the commencement of the performance, during which, not unfrequently, the greater number of burners in the auditorium may be turned entirely off to advantage, to be relighted by the apparatus the instant they are required. It is under the control and operation of the gas man of the theater, without the aid of an expert. The match and torch are dispensed with; it is therefore estimated as a fire insurance. Its practical convenience is bound sooner or later to insure its universal adoption in public buildings.

EDWIN BOOTH.

PECK'S MUSIC HALL,
New Haven, Connecticut, November 9, 1866.

Wilson's Electric Gas Lighter, which has been in constant use in my hall for the past six years, has during that time given the fullest satisfaction, and, when properly attended to, has never failed to do its work. I regard it as a most perfect and indispensable method of lighting gas, and would on no account do without it. I therefore cheerfully and earnestly recommend its adoption, and feel sure that all who use it will find, as I have done, that it is economical, reliable, safe, and in all respects satisfactory, being far superior to any other known method of igniting gas by means of electricity.

SAMUEL PECK,
Proprietor of Music Hall.

PECK'S MUSIC HALL,
New Haven, March 24, 1870.

MADAM: I now take pleasure in answering your inquiries about cost, &c., of using the Wilson Electric Lighter. Zinc plates have to be renewed once in about three years. Music Hall is used two hundred or more nights per year. Yearly expenses of keeping apparatus in order will not exceed $5.

Any other questions you may wish me to answer will be cheerfully complied with.

Very respectfully, yours,

CLARK PECK,
Agent of Music Hall.

Mrs. J. H. WILSON.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 49.

SENATE CHAMBER AND HALL OF THE HOUSE OF REPRESENTATIVES.

MARCH 3, 1871.—Ordered to be printed and recommitted.

Mr. JENCKES, from the Select Committee on Ventilation, made the following

REPORT.

The Joint Select Committee of the two Houses of Congress appointed at the last session to examine into the present condition of the Senate Chamber and Hall of the House of Representatives as regards lighting, heating, and ventilation, and their acoustic properties, and the defects and disadvantages existing in the same, and the best method of providing remedies therefor, make the following report:

Several committees in previous Congresses have been charged with the same duty as that imposed upon this committee by the joint resolution authorizing their appointment. The reports of these committees contain much useful information, and many theories and speculations concerning the several subjects embraced within the scope of their inquiries. But their investigations, and the elaborate reports which followed them, have led to nothing substantial in the way of improving the condition of the two halls. The evils were felt and admitted, but the plans which were proposed for removing them did not meet the approval of either House. This committee have had the advantage of the labors of all these previous committees, and in conducting their own investigations, and in making experiments to test the accuracy and value of the theories and plans submitted to them, their endeavor has been to arrive at some correct and practical result. Their first effort was to ascertain with as much exactness as possible the existing state of things in the two halls which affected the subjects of their inquiries; then to detect the conditions under which the evils complained of appeared, with a view to the removal of their causes as far as practicable. This mode of conducting their investigations led the committee to the conviction that the magnitude of the evils had been greatly overestimated, and that the problem which had been submitted to this and previous committees was not so difficult of solution when its elements were once discovered and understood.

The remarks which follow will be mainly applicable to the hall of the House of Representatives, as that is much the larger of the two, and the incidents of its use to be inquired into are complicated with much greater difficulties. Whatever is stated about the larger hall may be taken to be true with regard to the smaller, although in a lesser degree, unless otherwise stated.

AS REGARDS THE LIGHTING OF THE HALLS.

The light is received through large plates of glass in the roof, half an inch in thickness, modified and reduced by the stained glass in the ceil-

ing. The supply from other quarters is too limited to be taken into account.

The "defects" in this mode of admitting light are in the too limited space allotted to the glass in the roof, and in the obstruction to the transmission into the hall of that which is thus admitted by the stained glass in the ceiling of the hall. If the light passed freely through this ceiling the area of the glass in the roof would probably be sufficient. But the most translucent parts of this stained glass absorb or keep back at least twenty-five per cent. of the light which strikes their upper surface, and the stained portions, which are more than one-half of the area of the ceiling, intercept at least fifty per cent. (See letter of Professor Henry.)

The "disadvantages" of this mode of lighting the hall are that no clear light is admitted from without at its full illuminating power into any part of the hall; and that in order to relieve the eye from the effect of the direct rays of the sun upon this semi-transparent ceiling it became necessary to use large blinds, or louvers, which, while they shaded the ceiling from the sun, greatly obstructed and diminished the force of the light which passed through the glass in the roof. Besides, the committee found these louvers constructed in sections, disconnected, and only to be adjusted by an attendant who could reach the point from which the sections could be moved by walking along a narrow plank causeway laid across the large iron girders of the ceiling. The consequence was that there was no uniform adjustment of the sections, and that some would be closed too much in cloudy days, when none too much light could be admitted if all of them were wide open. The eyes of those on the floor would be sorely tried in the obscurity. To the changes in the force of the light caused by the clouds were added the variations and uncertainties in the management of these louvers.

This method of lighting the hall was not in the original design of the architect of these buildings. His plan was to have raised the inner walls next to the hall to a height to have admitted windows of sufficient capacity for lighting the hall in all states of the sky and weather. On the northern side of the hall a clear and unobstructed light would have been admitted at all times, while on the other sides blinds would have been adjusted so as to exclude the direct rays of the sun without creating obscurity in the hall below. These windows were designed to be double, so as to have afforded protection against the cold in winter and sudden changes at all seasons. By this arrangement the hall would have received an abundance of cheerful light, sufficient at all times, of easy control under external changes, and grateful to the eyes of those sitting at their desks on the floor.

Former committees have considered the propriety of reconstructing the roof in conformity with the original design of the architect, and have caused estimates to be made of the expense of such reconstruction. This committee have to some extent verified the estimates of the expense, and find it so great that they do not concur in the views of a former joint committee, who recommend the change to the original plan. These estimates at present prices of labor and materials would make the cost of the alterations about $200,000 for each of the two wings. Nor would it be safe to calculate that the work, if undertaken, could be finished between the sessions of Congress.

Some changes have been recommended by the committee and have been made under the direction of the architect of the capitol. One of these was, to connect the louvers or blinds under the sky-light so that all under each slope of the roof could be moved and adjusted at the same time, thus rendering it easy for the attendant to admit the full force of

the light or to prevent the rays of the sun from entering the hall, or otherwise to adjust the blinds so as to equalize the light under all external changes. Another change has been made in removing the plates of iron from the row of panels next to the outer squares of glass in the ceiling of the hall and to insert in their place plates of glass. The illumination of the hall is thus increased to some extent in the day-time, and very greatly in the night by placing a circle of gas-burners above each plate of glass. The effects of this change is perceived with more effect in the galleries than upon the floor. In the night, by gas light, every part of the hall is now thoroughly illuminated.

The expense of these changes has not been great, and has been fully provided for by the appropriation of the last session. The lighting of the hall would be still further improved by taking out the stained glass in the ceiling and replacing it by glass ground upon one surface like that introduced into the outer row of panels. A further improvement in the light could be made by removing the large plates of glass in the roof which are thick and but semi-transparent, and replacing them with lights similar to those in the roof of the old hall and over the Supreme Court room. Glass thus arranged would not only admit more light, but cause it to be diffused more evenly over the ceiling, and relieve the galleries from the shade now cast upon them. But as no complaints have been made of an insufficiency of light since the alterations already described, the committee have not thought it best to recommend an increased expenditure for that purpose. They are satisfied that no great improvement can be made in the method of lighting of the hall unless a complete change is made in the structure of the roof. No alterations have been found necessary in the mode of lighting the chamber of the Senate.

OF THE MODE OF HEATING THE HALL.

Whenever it becomes necessary for the comfort of the occupants of the hall to increase its temperature above that of the external atmosphere, steam is let into the coils of pipe in the aperture through which the air is forced into the hall by means of revolving fans, and it becomes heated to the requisite degree by contact with the pipes containing the steam. The air thus heated is distributed by large conduction pipes to different parts of the floor of the hall, through which it is admitted into the hall by means of registers. Some heated air is also forced into the hall through apertures on its sides, at a short distance above the floor.

Whether this mode of heating has "defects and disadvantages" which render it less economical or effective than other systems, the committee did not stop to inquire, as the cost of removing the present apparatus and substituting a new one constructed on any other principle, or acting through other means, would be greater than the committee would recommend or Congress be willing to expend.

The principal defect in the mode now in use is in the manner in which the heated air is conducted into the hall and distributed by means of pipes, flues, and registers. In the present arrangement of the air shaft, pipes, and registers, the heated air is discharged into the hall more freely from openings near the shaft than from those more distant from the source of supply. The Architect of the Capitol has devised a plan which the committee have recommended, by means of which the heated air will be more evenly distributed in its delivery into the hall, and the space beneath the floor is utilized as a reservoir of heated air. This change will also make a great improvement in the construction and

ing. The supply from other quarters is too limited to be taken into account.

The "defects" in this mode of admitting light are in the too limited space allotted to the glass in the roof, and in the obstruction to the transmission into the hall of that which is thus admitted by the stained glass in the ceiling of the hall. If the light passed freely through this ceiling the area of the glass in the roof would probably be sufficient. But the most translucent parts of this stained glass absorb or keep back at least twenty-five per cent. of the light which strikes their upper surface, and the stained portions, which are more than one-half of the area of the ceiling, intercept at least fifty per cent. (See letter of Professor Henry.)

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This method of lighting the hall was not in the original design of the architect of these buildings. His plan was to have raised the inner walls next to the hall to a height to have admitted windows of sufficient capacity for lighting the hall in all states of the sky and weather. On the northern side of the hall a clear and unobstructed light would have been admitted at all times, while on the other sides blinds would have been adjusted so as to exclude the direct rays of the sun without creating obscurity in the hall below. These windows were designed to be double, so as to have afforded protection against the cold in winter and sudden changes at all seasons. By this arrangement the hall would have received an abundance of cheerful light, sufficient at all times, of easy control under external changes, and grateful to the eyes of those sitting at their desks on the floor.

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The expense of these changes has not been great, and has been fully provided for by the appropriation of the last session. The lighting of the hall would be still further improved by taking out the stained glass in the ceiling and replacing it by glass ground upon one surface like that introduced into the outer row of panels. A further improvement in the light could be made by removing the large plates of glass in the roof which are thick and but semi-transparent, and replacing them with lights similar to those in the roof of the old hall and over the Supreme Court room. Glass thus arranged would not only admit more light, but cause it to be diffused more evenly over the ceiling, and relieve the galleries from the shade now cast upon them. But as no complaints have been made of an insufficiency of light since the alterations already described, the committee have not thought it best to recommend an increased expenditure for that purpose. They are satisfied that no great improvement can be made in the method of lighting of the hall unless a complete change is made in the structure of the roof. No alterations have been found necessary in the mode of lighting the chamber of the Senate.

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appearance of the floor itself. Substantially the same improvements have heretofore been made in the floor of the Senate chamber, and in the location of the pipes, flues, and registers under and through it.

The greatest obstacle to the preservation of a uniform temperature in the hall was found in the very defective construction of the roof. Taken as a whole, this was little better than an awning spread over the iron rafters. The original plan of this part of the structure having been abandoned, the substitute for it seems to have been adopted without regard to its fitness or permanence, and to have been allowed to remain practically unfinished. The area of that portion directly over the hall is about 13,000 square feet, and of the whole roof, upward of 17,000 feet. Of this area, the plates of glass occupy about 4,000 square feet, in a long parallelogram, divided into equal parts lengthwise by the ridge of the roof. The remaining portion is constructed of sheets of copper three-sixteenths of an inch in thickness, corrugated and fitting loosely together at the joints. The expansion and contraction of this great area of metal has loosened the connection of the plates and opened fissures of considerable width for nearly the whole slope of the roof. The extent of the overlapping of the sheets has prevented leakage during rains, but streams of cold air have free admission. The effect of this condition of the roof has been to cause, in cold weather, the currents of warm air which rise up to it through the ceiling of the hall to become suddenly chilled, and, instead of escaping through the apertures in the roof designed for ventilation, to descend rapidly in a cold shower so as to form in the outer portions of the hall currents which were felt in their downward flow even to the floor. This was the origin of those peculiar chills which would cause members to look up to see if the doors between the galleries and the corridors had not been left open, or to look around and inquire for the apertures through which such a volume of cold air could be so suddenly admitted. These chills were the fruitful source of colds, rheumatic pains, and other serious diseases. Hardly any one escaped their effects. In a cold day in winter, when the temperature kept with difficulty at a comfortable equilibrium by working the heating apparatus so as to counterbalance the refrigerating effects of the roof, the sudden diminution or entire shutting off of the steam in the coils, or even the departure of a considerable number of spectators from the galleries, would diminish the supply of heat and cause the refrigeration to obtain the mastery, to the great discomfort of those who sat beneath the descending currents of the chilled atmosphere. Almost every one has observed this, and many have received injurious effects from it. The reports of previous committees, and of the Architect of the Capitol, had failed to excite sufficient attention to this serious defect in the roof to lead to the making of a sufficient appropriation to provide a remedy for it. As soon as this committee had entered upon its work they became satisfied that this evil should be remedied, if nothing else was done, and upon their recommendation a sufficient sum was appropriated during the last session to provide a substantial fire-proof ceiling immediately below and a few inches distant from the copper roof. The effect of this has been even greater than your committee anticipated. The sudden chills from the cause described have not been felt during the present session, although there has been more severe cold weather and more sudden and extensive changes than for several previous seasons, and the hall has been kept at a comfortable and equable temperature with less use and management of the heating apparatus than before. After the members have taken their seats until the time of adjournment, from about half-past

12 till about half-past 4, the thermometers in the hall have rarely indicated changes of three degrees. The temperature in all parts of the hall occupied for seats has been nearly the same, seldom varying more than a fraction of a degree. On several days when the temperature of the external atmosphere has been upward of 55°, the steam has been shut off from the coils after the session of the House has commenced, and on some such days the temperature in the hall has been the highest of any days during the session. The attendant engineers have rarely allowed the temperature to reach 70° while the heat was dependent upon the supply from this apparatus, but on the days like those referred to, when the steam was shut off, and the supply of heat was not within their control, the thermometers have indicated as high as 71° or 72°. The temperature of the hall during the hours of the sessions of the House has generally been from 66° to 69°, and without any sudden variations.

Some increase of the heating apparatus has been made by introducing grates and coal fires in the cloak rooms. These have been found to be a great convenience and comfort, but their effect has been more decidedly marked upon the ventilation.

The committee recommend the extension of the ceiling of plaster beneath the whole of the copper roof. The air chamber formed between the copper and the plastering is of sufficient dimensions to conduct the currents of cold air which are formed in winter by contact with the copper, as before described, down to the scuppers under the eaves, through which they are discharged without entering the hall; and the currents of hot air formed by such contact in summer are carried up toward the orifices near the ridge of the roof, through which they escape in like manner. The body of air in the chambers forms of itself a shield against both the external cold of winter and the heat from the rays of the sun in summer, and thus aids in preserving the equilibrium of the temperature in the hall.

OF THE VENTILATION OF THE HALL.

The principle upon which all the contrivances for the ventilation of the halls were constructed, and the apparatus fitted and operated, was that of renewing the air which had become foul by respiration and exhalation, by forcing in a continuous supply of fresh air from the external atmosphere by artificial means. It was believed that the air in the hall would be heated while it was being contaminated, and would rise and flow out of apertures in the roof while its place was being supplied by the pure air from beneath. Thus apertures of the area of about 250 square feet were left in the roof for the escape of the foul, heated air as it would ascend from the hall, and a foul-air flue of 25 square feet area, leading downward from the space above the ceiling, was also provided for the drawing off of such foul air either by a connection with the flue of the chimney or by other artificial means. The supply of fresh air was provided for by an air duct leading into each hall, in which was placed a fan operated by a steam-engine, which could create a current sufficient to cause from 50,000 to 100,000 cubic feet of air to flow into the hall every minute. In actual use the supply to the hall of the House is about 60,000 cubic feet each minute, and about half that amount in the Senate. If the air were simply heated in its passage through the hall, or if the heat which it acquired would be sufficient to cause it to rise in one continuous flow, notwithstanding the contamination it receives from various sources at the same time, then the theory would have been

perfectly correct, and the hall of the House would have been the best-ventilated room in the world. The contents of the hall would have been discharged and the hall refilled with pure air once in about seven and a half minutes, without any currents that would have been perceptible and without causing any sensations either of undue dryness, warmth, or chilliness. Indeed, in the ordinary use of the hall in the seasons of winter and spring, when the temperature of the external atmosphere is not above 75° or below 45°, and the hall is occupied only by the members in attendance and the officers of the House, with few spectators in the gallery, there is probably no hall approaching its size in the world which has equally good ventilation. But the designers of this plan of ventilation left out of consideration many of the disturbing elements which make their appearance in the hall in the course of its use, and did not make sufficient allowance for the strength of the resistance of those obstacles which they knew they must meet and overcome. The hall, with from three to five hundred persons upon the floor and in the cloak rooms and from fifteen to twenty-five hundred persons in the galleries and upper corridors presents a very different and far more difficult problem for the science of ventilation than under the conditions first referred to. And when we remember that this extreme occupation may take place in all conditions of the temperature of the external atmosphere, from near zero to upward of 90° ; when the air is surcharged with moisture, as well as when it is dry, bracing and electric; when the weather is cloudy, close, and oppressive, as well as when it is clear; when it is calm, as well as when it is windy; in the night, when all the gas-burners are lighted, as well as in the day time, we see that the problem of successful ventilation is complicated with elements not within the scope of the simple plan at first adopted. Hence we are not surprised at finding so many conflicting statements and conclusions in the reports of former committees and of consulting engineers, and at the variety and even oddity of some of the propositions submitted to the committee for the remedy of the actual and imaginary difficulties which exist or were supposed to exist under the present system.

The committee first endeavored to ascertain the existing "defects and disadvantages" in the contrivances for ventilation, before considering any proposition for relief. By so doing, they found, or believed that they found, remedies for most of the more serious evils, without condemning entirely the present system, or recommending any of the new theories urged upon their consideration.

One of the defects in the original plan, and perhaps the most serious one of all, was the theory that the air in the hall which had become foul by respiration and exhalation would rise and flow off in a regular or gradually accelerated current, and that its place would be as regularly supplied from beneath by the pure air forced in by the fans. If the hall had been very long and very narrow, and the fresh air had been forced in at or near one of the ends, or if the area of the floor had been small and the hall had been very high, an approximation to such a result might have been reasonably anticipated. But the hall is nearly four and a half times as long, and three times as broad as it is high, and the fresh air is not all admitted at one place, or on one line across the floor, or at a great number of points arranged regularly throughout the whole area of the floor, so as to apply a continuous force toward ejecting the foul air; but the registers are scattered about the hall widely distant from each other, or are coincident with the sides of the hall. Nor were the apertures in the ceiling or in the roof so situated as to favor the operation of this theory of a continuous flow. Those in the roof were

near the ridge, those in the ceiling were in the outermost row of squares, while the glass ceiling and the surrounding row of squares with iron panels were entirely closed to the passage of air in either direction. The currents of air that escaped through the apertures of the roof were brought in direct contact with the copper.

The greater portion of the seats are directly under the glass in the ceiling.

The copper roof would in cloudy weather and in the night be of about the same temperature as the external air, and if that was below 70°, the usual temperature of the hall, the upward current would be chilled and consequently checked on coming in contact with it, and when cooled would form a downward current, which would seek ingress into the hall through some of these side apertures in the ceiling. Hence arose the phenomenon which has been remarked upon by all former committees and observers, that in cold weather while an upward current could be detected on one side or at one end of the hall in front of the galleries, a downward current would also be manifest on the other. These currents have been at times so strong as to show a difference in temperature of 5° at the same level on opposite sides of the Senate chamber. The foul air which ascended from the occupied portion of the hall to the glass ceiling would also be checked in its flow, and either descend or remain nearly stationary immediately under that portion of the ceiling, and above and around members in their seats. Thus a body of foul air would be formed in the center of the hall, which, under the conditions described, would increase in offensiveness as long as these conditions continued. The effect of this was graphically described by a chairman of a former committee (Mr. COVODE) in a short speech, when the subject of ventilation was brought before the House by this committee, and is set out more in detail in a report made by him from his committee. (H. R. Report No. 65, Fortieth Congress second session). When the air in this central part of the hall once becomes foul, the pure air injected through the registers does not mingle readily with it, or displace it, but passes around it near the sides of the hall to the openings in the ceiling, or through it in ascending streams, mixing with it but slightly. Every one has observed how long streams of pure and muddy water will keep distinct after uniting and flowing in a single channel. When the bottom of a spring is disturbed and a portion of the water is discolored by the mud, the pure water that arises from the sources does not mix at once with the muddy water, or push it through the outlet, but flows under and around it and runs off freely by itself, and often the clear water, to the amount of many times the contents of the spring, thus runs off, before the whole of the muddy water is displaced. There are some lakes which are traversed by rivers whose streams pass entirely through the body of the lake without mingling with its waters, and whose channels are nearly as marked and distinct from the water they pass through at the place of exit as at the place of entrance. So the foul atmosphere in the hall is like the muddy water in the spring, or the sluggish water of the lake, except that the cause of the disturbance is continuing and increasing all the time, and the fresh air from the registers is like the pure water from its sources, struggling constantly with the foul, and escaping by evading it altogether, or carrying it off by little and little. A delicate anemometer plainly discloses these different currents in different parts of the hall, and in some places very near to each other.

The great fact has been patent to every one who has spent any considerable time in the hall, that the body of 60,000 cubic feet of pure air, which is forced into the hall every minute, ascends and escapes

without carrying with it any considerable portion of the carbonic acid gas and other impurities with which the hall is constantly being filled.

The location of the registers causes another serious defect in the ventilation. The principal of these are horizontal, in some cases extending across an entire passage way, and otherwise scattered around between the desks and under the feet of members. They unavoidably become the receptacles of dirt and scraps, and at the close of each daily session, when the fans are stopped and the current of air caused by them ceases, and the sweeping of the carpets commences, they receive a considerable portion of the dirt that is swept over and around them. This dust, when the fans are again started, is driven out into the hall, and sometimes is so dense as to become visible. This causes the irritation of the throat, and the coughings which are heard so frequently in the hall, and which afflict many who are not subject to colds.

Another defect exists in the absence of means to furnish moisture to the air in cold weather. This defect your committee believe to have been very much exaggerated in previous reports, but it is a serious one during the season of very cold weather. For all that period during which the air is driven into the halls without being heated, or being heated but slightly, there is very little difference between the relative humidity of the air within and without the halls. But when the temperature of the external atmosphere is 40°, and below, and is raised in its passage into the halls to between 65° and 70°, the difference of moisture in the heated air becomes apparent, and produces disagreeable effects. The air rapidly supplies itself with a portion of the moisture which it is capable of holding at the increased temperature from the respirations and exhalations, and having been thus loaded with impurities it becomes the more difficult to be purified or displaced by the fresh dry air which follows, as already explained.

There are also some disturbing elements which occasionally derange the existing plan of ventilation, and which are not met or provided for by any of the contrivances now in use. One of these is the effect of the sun's rays upon the metal in the roof. The whole of this structure above the walls, except those portions occupied by the glass plates, is of copper and iron, and those portions which are below the roof, including the large iron beams, are often heated to a very high degree in the hot, clear days of summer. The thermometer has not unfrequently, on such days, when placed in the space above the ceiling and below the roof, indicated a temperature above 140°. This increase of heat above the ceiling ought to improve the ventilation of the hall on such days, and usually does, except when the unequal currents already explained are set in motion, and in such case it is no unusual thing for this heated atmosphere to be drawn down upon one side or the other of the hall, to the great discomfort of those whom it strikes. The same thing occurs when the gas has been burning for some length of time. The discomfort in this case is much greater, as the heated air which is drawn down is charged with carbonic acid gas, the product of combustion.

Another disturbing element is the great variation in the number of persons occupying the floor and the galleries; each one adds to the carbonic acid by his respiration, and to the general discomfort by increased heat and exhalations. The apertures in the roof are large enough, when the fans are in operation, to meet the wants of fifteen hundred people within the walls of the hall, but there is no adequate provision for the necessities of a greater number. The consequence is that when the galleries are well filled the discomfort must increase until a large portion of the spectators leave.

The cloak rooms have also been an obstruction to healthy ventilation. Being kept closed externally, and resorted to by smokers, the air in them became close and saturated with tobacco smoke, which had no place of escape except into the hall.

Some remedies have been applied and others are now recommended, which, it is believed, will partially overcome these defects. There are defects in construction which cannot altogether be overcome without remodeling the whole structure. The committee have not seen their way clear to recommend the adoption of any new plan of ventilation which is based upon entirely different theories, and which would be revolutionary in its effect upon the building. The vast expense has been one reason, and generally a conclusive one, against such a change. Besides that, most of the plans which have been submitted upon new theories have not been tried at all, or tried upon so small a scale that it seemed to the committee by no means certain that they would be successful when applied to halls of such magnitude as these. In one respect these halls are situated favorably both for maintaining an equable temperature and a healthy ventilation. It is supposed by many that the inclosure of one building within another, the inner one being the hall, is a serious defect in the construction with a view to both these requisites; on the contrary, it is a great advantage. If the hall approached the exterior wall it would be subject not only to all the internal changes of temperature and elements disturbing the ventilation, but also to all those of the external atmosphere and the weather. Almost every one of the disturbing elements that have been named would be greatly aggravated if the hall approached the exterior. It would also be subject to the disagreeable effect of cross-lights and the dazzling effect of the direct action of the sunlight. External influences, like those of noises, winds, and storms, would make themselves felt disagreeably, which are now altogether excluded.

Conceding the advantages of the general structure, and finding that the disadvantage of a forced ventilation could not be altogether overcome, it seemed possible to remove altogether, or to neutralize, some of the existing evils. The first and most serious of these was found in the theory of the forced ventilation, upon which all the apparatus was constructed and arranged. Being dependent for success upon the production of a continuous current in the whole body of the air in the hall from the place of supply to that of discharge, anything which obstructs that current, or prevents the equal discharge, the supply being constant, will impair its efficiency and tend to render it practically useless. What would seem to be the most obvious theory of ventilation, as applied to large halls, was almost entirely ignored in the structure of these buildings. As the foul air is wholly generated within the hall, it might be assumed, as the first requisite of healthy ventilation, that this foul air should be removed. This is the only purpose for which artificial power is needed, as the pressure of the atmosphere is at all times sufficient of itself to force in the fresh external air to fill the space from which the foul air has been withdrawn. It had been suggested by former committees, and the experts whom they consulted, that the fans might be reversed, and be used for exhausting the air from the halls, but no action had been taken upon the suggestion. A step had been taken by the architect in the right direction in 1866, when, as he says in his report for that year, he "found" a large flue in each wing of the Capitol, "running from the cellar and emptying into the loft of the connecting corridors," which he caused to be connected with the smoke flues from the boiler furnaces. How the knowledge of these flues became "lost," subsequent to the completion of the wings, is not

explained. This flue in the House wing has an area of 25 square feet, and withdraws the air from the loft above the ceiling, in quantities depending upon the strength of the draught in the chimneys. It has done good service, but its capacity is not equal to the duty required of it. In the flue in the Senate wing a fan has been placed to operate upon the air above the ceiling by exhaustion, and the effect is so excellent that the committee recommend a similar fan to be operated in the flue upon the House side. They recommend also that this flue be enlarged to double its capacity, which the architect reports can be done without injury to the building, by chipping out one foot in thickness from the surrounding walls, which are now three feet in thickness. An additional engine will be needed to operate this fan. When completed and in operation this fan can discharge 50,000 cubic feet per minute from the loft over the ceiling of the hall, and when both the forcing-in fan and the exhausting fan are in operation the atmosphere in the hall can be changed every five minutes. This would insure a perfect ventilation, if it were certain that only the foul air would be discharged. In order to insure this result the apertures leading from the hall to the loft have been greatly enlarged and distributed over the greater portion of the ceiling. This has been done both in the Senate chamber and in the hall of the House, by simply lifting the iron sash which holds the glass from its seat, thus permitting the air to flow freely through apertures two inches in width, all around each of the squares. The area of the apertures in the outer row of squares is 70 square feet, to which have been added 200 square feet by raising the sashes, making a total of 270 square feet, through which the foul air can be withdrawn from the hall through this flue and through the apertures in the roof.

In order that the supply of fresh air may be delivered in the manner that will insure its most thorough distribution, it is proposed to reconstruct the floor and make a new arrangement of the flues and hot-air pipes under it, so that the air may enter the hall from vertical registers in front of the steps, in all parts of the hall. The nuisance of dust will also be avoided by this arrangement. The plan has been tried in the Senate chamber with complete success.

For the more thorough ventilation of the cloak rooms, chimneys have been chiseled out of the interior walls of the building, and fitted with grates for burning anthracite coal. Tubes, with bell-shaped mouths, have been placed over the gas-burners, and openings have been made from the library and other small rooms into the vestibules. These improvements make the ventilation of the cloak rooms and other small rooms adjoining the hall practically perfect.

The chimneys above the cloak rooms are made to do a double duty. The flue for the products of the combustion of the coal occupies the middle of the chimney, while a flue on each side of it opens at its lower end into the open space beneath the floor of the gallery and above the roof of the cloak rooms. These flues withdraw the air from the galleries and the hall through these spaces, which thus become exhaust-chambers instead of hot-air ducts, as formerly. The effect of these flues upon the air in the galleries is very beneficial. It is recommended that the same improvements be made in the Senate chamber.

The heat from the gas-burners above the ceiling is also a disturbing element in the ventilation of the hall. The temperature of the air in the loft is raised by the heat of the burning gas from 30° to 50° above the temperature of the hall. It is believed that this disturbing element can in a great measure be removed or controlled by the operation of the fan for exhaustion. It is proposed, however, to place tubes and flues

above the burners so as to carry off the heat and the products of combustion in the same manner that they are removed from the cloak rooms. This method, it is expected, will greatly improve the ventilation.

Contrary to the general belief, it has been found, by repeated experiments, that the gas while burning does not increase the temperature in the hall. Thermometers placed immediately under the ceiling and exposed to the full effect of the light, indicated a temperature but 2° higher than that shown by thermometers placed at the height of the desks on the floor, and no higher than that indicated by thermometers at the same level under the shaded portions of the ceiling. Many members have kept on their hats, or used some sort of a shade for the head, to protect it from the heat supposed to be radiated from the burning gas during the night sessions; but it has been demonstrated that whatever discomfort is caused by the burning gas, it is not owing to its radiation of heat. The stained glass of the ceiling intercepts from 25 to 50 per cent. of the light from these burners and all of the heat.

OF THE PLANS SUBMITTED TO THE COMMITTEE.

In response to the invitations of the committe, many plans for the improvement of the ventilation of the halls have been submitted by different parties, some of which deserve and have received a careful consideration.

The most important of these is the plan and proposition of Laban C. Stimers, an engineer of New York. His plan was submitted to a former select committee of the House on the subject, and the proposition now submitted is in further explanation of his proposed improvement.

If a new Capitol were to be built, so that the system proposed by Mr. Stimers might be completely provided for and developed in every part of the structure from the foundation to the roof, his plan might receive favorable consideration from those who had in charge the erection of the new building. But the magnitude of the work, as well as the great expense it would involve, and the length of time required for its completion, have deterred the committee from recommending its application to the existing structure. It is a proposition which in its application to the Capitol as it now is, would be revolutionary in all that relates to the modes of heating and ventilation, and the adoption of which could only be justified by the total failure of the present method and apparatus. His essays form a valuable contribution to the science of ventilation. They will be found appended to this report. His plan requires the erection of structures outside of the Capitol, at a cost, as estimated by the Architect, of upwards of $300,000; and he proposes to furnish the necessary machinery and apparatus, and make the requisite alterations in the Capitol itself, at a contract price of $654,000. The committee became satisfied that the lowest estimate which could be placed upon the cost of the introduction of Mr. Stimers's system of ventilation into both wings of the Capitol would be about $1,100,000.

Another plan is that proposed by Mr. Luther Robinson, of Boston. He expects to accomplish successful ventilation by a number of peculiarly-constructed ventilators in the roof. There are serious objections to the use of such ventilators in connection with the present apparatus for forcing air into the hall, and without altering the structure of the roof and ceiling; and the committee have hesitated to recommend the adoption of Mr. Robinson's plan as a whole. They have, however, come to the conclusion that ventilators in the roof may be of some service in summer, especially over the staircases and corridors, and perhaps

over the hall, if they are made so as to be capable of constant regulation and adjustment. The selection and application of them the committee propose to leave to the judgment of the Architect of the Capitol, guided by experiments to be made after the exhausting apparatus shall have been introduced and tested.

The committee have thought it best to append to this report all the propositions which they have received upon the several subjects referred to them, and also to reprint those portions of previous reports which give the history of the ventilating of the halls. The valuable report of Dr. Charles M. Wetherell, with those of Mr. Walter, the former Architect of the Capitol Extension, and of Professor Henry, of the Smithsonian Institution, on the same subject, are also appended, the original editions having been exhausted. Some observations are added by way of notes which have been suggested by the experiments made under the direction of the committee.

Among the propositions is one from the United States Ice and Refrigerating Company, for the erection and fitting up of refrigerating machines for the purpose of cooling the halls and corridors in summer. Your commmittee are of opinion that an apparatus of this kind for the purpose of cooling the walls of the corridors in the early part of the day in summer, before the hour for committee meetings, would prevent the excessive heat from without from penetrating into the hall, and give a grateful coolness to the air which entered through the wire-gauze doors. A jet of air of a temperature reduced by this apparatus, thrown into the flue through which the external air is forced into the hall, might reduce the temperature from 4° to 5° below what it would otherwise be. On referring the proposition to the Architect he reported that it was not practicable to erect the structures necessary to prevent the escape of the cold air to be used for refrigerating the corridors without disfiguring and obstructing the entrances to the hall and the corridors, and that the other method of utilizing the cold air would require greater alterations in the flues and ventilating apparatus than he thought proper to recommend. These objections, with that arising from the great expense of the apparatus, considering the very short period in summer when it is actually needed, were sufficient, in the judgment of the committee, for not entertaining the proposition. The best method of making an application of this refrigerating process to the necessities of the halls has probably not yet been suggested.

Henry A. Gouge also exhibited his apparatus for ventilation before the committee, and explained its operation and use. It will be found in the appendix. The committee had doubts of its efficiency in so large a structure. It seems well fitted for the cloak rooms and committee rooms. Under the appropriations already made the Architect will be at liberty to test its value in such manner as he may think fit.

Some of these propositions will strike the reader as very singular, and based upon curious ideas concerning the principles of ventilation. But they have all been submitted to the committee in good faith, and as some of them were prepared by parties who had not made themselves familiar with the structure of the halls and the changing circumstances attending their daily use, any apparent eccentricities may be more properly charged to the want of information upon these facts than to ignorance of natural science. It must be remembered that the science of ventilation itself is of very modern date, hardly older than the use of anthracite coal as a fuel, and that its successful application to the hall of the House of Representatives is probably the most perplexing and complicated problem of the kind ever submitted to an engineer.

OF THE MANAGEMENT OF THE HEATING AND VENTILATING APPARATUS.

The series of improvements which will close for the present with those recommended by this committee, will probably furnish the means of adding to the comfort of members while engaged in the hall; but this will by no means remove all the defects in the methods of heating, lighting, and ventilating the halls, as some of these are inherent in the structure itself, and cannot be overcome except by changes which would be essentially revolutionary and enormously expensive. It was said in the House of Commons in England that two hundred thousand pounds sterling had been expended in endeavoring to improve the ventilation of the two houses of Parliament, and that they were little better in this respect than at first. We might expend a like sum in experiments upon theories that seem plausible, but which have never been tested upon a large scale, with a similar result. We may admit that our structures are faulty, and that our apparatus is arranged and operated upon a false principle, but it does not follow that they must be renovated and reconstructed altogether in order to avoid the evil consequences of these errors and defects. Some of the consequences may be averted by comparatively slight changes in the structure and apparatus, and others may be prevented in part, if not altogether, by the watchfulness of attendants. However perfect the theory and correct the principle upon which a system of ventilation on so large a scale as that required in these halls may be set in operation, it will never be entirely satisfactory at all times, unless it is made to adapt itself to the changing conditions and circumstances which attend its use. There are no known contrivances by which it can be made wholly automatic, and there are no well-known and well-settled rules by which the proportion of cause to effect can be determined absolutely in the several elements of which such a system must be composed. Our efforts are at most a series of experiments; a tentative process, out of which perfect symmetry of arrangement in detail of construction and mode of operation may at last be attainable, but which as yet has not been attained.

Many of the inconveniences heretofore experienced have arisen from the ignorance or inattention of those who have been employed as attendants upon the halls. It has not been their fault altogether that they were, when appointed, ignorant of the duties which they ought to perform, or that they have remained uninstructed. Some of them are appointed by the Clerk of the House, some by the Doorkeeper; some are in the employment of the Superintendent of Public Buildings and Grounds, and some of the Architect of the Capitol. There is no good reason why these persons should belong to essentially different corps, but every reason why they should be appointed by, and be under the control of one who can select his employés with regard to their fitness for the duties they have to perform, and who has the skill to teach them what their duties are, and to see that those duties are always well performed. There is not an office connected with the heating, lighting, and ventilation of the halls which does not require a good education and a considerable degree of skill in the performance of its duties. While the House is in session of a cloudy and windy day, it requires the constant attention of one person to adjust the louvers at every change from fair to cloudy, and from clouds of one degree of density to those of another, so that the hall may receive a sufficient degree of light all the time, not seriously affected by the external fluctuations. It requires a greater degree of attention, a better education, and a higher degree of skill in the per-

son who observes the hygrometer and the wet and dry bulb thermometer, to ascertain the relative humidity of the atmosphere, and to know what amount of additional moisture it requires to bring the air in the hall up to the healthy degree of saturation, and to know when and by what means the want should be supplied, and to be able to have it supplied without causing the infusion of an excess of such moisture. Dr. Wetherill says, (p. 80,) that "to add water, whether in winter or summer, requires *intelligent and watchful industry*, aided by a proper psychrometer." This latter instrument is to be found, he adds, in the improved hygrometer. And when the ordinary hygrometric conditions of the atmosphere in the hall are reversed, and there is an excess of moisture, and on the days when the action of all the natural forces is sluggish or inverted, when coal will not burn in the grates, and the chimneys fail to draw, and the air is forced back or falls back in the flues and outlets, notwithstanding all the force of the fans is applied to urge it forward, the highest degree of skill is required to keep the system in action, and to prevent discomfort. So also, it needs constant watchfulness and observation of thermometers, as well as care in adjusting and regulating the supply of steam to the coil of pipes in winter, to keep the temperature of the hall at the proper degree for comfort and health. In summer the same attendant must be constantly using his judgment with regard to the opening and closing of the external doors and windows, in order to help out the artificial with some natural ventilation. If the skill, watchfulness, and activity of these attendants were of the highest degree that could be obtained, then, even with the present system, any positive degree of discomfort could be prevented at all times. With such as can now be obtained, there is no reason why, under a single head and proper management, the healthful and comfortable condition of the hall should not be preserved during the hours that the House remains in session. The committee therefore recommend that all the persons who are employed for the purpose of attending to the heating, lighting, or ventilating of the Capitol be under the direction, control, and supervision of the Architect of the Capitol.

The committee have not obtained any information which enables them to recommend any change which would improve the acoustic properties of the hall. Its "defects and disadvantages," in this respect, are both in design and in construction, and cannot be remedied by any slight alterations. But the committee are of opinion these are of not so much consequence as is generally supposed. It is rather the magnitude of the hall than any peculiarities in its construction which renders it difficult to catch every word uttered by a member speaking from the floor.

OF THE DIFFERENT THEORIES.

The committee have not attempted to decide between the two theories of upward and downward ventilation upon which the engineers divide, and argue earnestly for and against the merits of each. All the arrangements in the hall as constructed are for the use of upward ventilation, and those who have recommended the substitution of downward ventilation have presented no plan of alterations which did not require a very large expenditure of money to introduce, wholly disproportionate to the value of the supposed advantages from its introduction. But the changes and additions recommended by the committee are such that it will be easy hereafter to adopt a downward ventilation if the modifications of the present system fail to produce adequate results. A downward ventilation may to some extent improve the acoustic qualities of the hall,

but it is not believed that such a change will be called for, or, if adopted, that it will be found beneficial.

COST.

The cost of all the alterations heretofore made upon the recommendation of the Committee on the Hall of the House has been about $16,000; of those to be made, including a new fan and steam-engine to operate it, is estimated to be $20,000.

PROPOSITIONS.

The various plans, propositions, and estimates received by the committee from various parties are hereto appended.

APPENDIX.

REPORT OF H. F. HAYDEN, CHIEF ENGINEER OF HEATING AND VENTILATING DEPARTMENT, UNITED STATES SENATE.

HEATING AND VENTILATING DEPARTMENT U. S. SENATE,
May 10, 1870.

SIR: I have the honor to submit the following report relating to the heating and ventilating department under my charge, showing its condition when I first assumed charge of the same, and the improvements that have been made during the past year. I found that there were two serious defects, which had always existed in the ventilation of the Senate wing:

1st. That one of the most manifest and material defects had been the want of proper moisture in the supply of heated air. It must be apparent to those who have given their attention to the subject of ventilation that the only way that heated atmosphere can be made healthful and pleasant to the senses is by a careful process of artificial evaporation. In view of this fact I have endeavored to obviate this difficulty, which I will explain more fully hereafter.

2d. That there was no escape whatever for the vitiated air in the chamber. Two avenues of escape had been constructed by the Architect of the Capitol Extension, but were closed off by the engineer in charge at that time. The air was forced by a fan into the chamber and allowed to take its own course, subject to all the disturbing causes which must necessarily exist in a hall which was without any escape for vitiated air. Therefore the air in the chamber would soon become so impure, and the ventilation so imperfect, that the necessity would be clearly shown of having that method of ventilation changed, so that the supply of heated air could be moistened and made pure and heathful, and the vitiated air removed in order that the same air could not be breathed twice. Dr. Antisell, in his interesting and able report on ventilation of the Senate wing, July 18, 1866, page 4, says:

"Ventilation has for its end and aim the removal of the vitiated air of dwellings and other crowded places, whenever and as fast as it is produced; but it is not possible by ordinary means to remove the vitiated air without its place being filled by air from another quarter, and thus the exit of air and its rëentry appear to be indissolubly linked, yet they ought not to be viewed in too close connection or as of equal importance. The first condition, the extraction of air, is of prime importance. The air which has been used is a poison, and the chief and first step to be taken is to remove it. In doing this one-half of the second condition has been obtained; that is to say, an equal supply of air has been introduced. What remains to be fulfilled of that second condition is to be certain that the new air is both healthful and agreeable to the feelings."

Upon an examination of the main air duct leading from the fan to the Senate Chamber, I found that the apparatus used by Dr. Antisell in conducting a course of experiments on hydration remained as left by him. It was, however, inadequate, as the relative humidity could only be kept at 30°, which was below the healthy minimum. I therefore had the apparatus removed, and have introduced a vaporizing apparatus in the main air duct, so that warm water can be vaporized and diffused in the supply of heated air, rendering it pure and healthful, and the relative humidity in the Senate chamber can be kept at 60° during the winter season.

In using water for the purpose of hydration, great care and attention should be paid to the hygrometric condition of the atmosphere. This can be ascertained at all times by the use of "hygrodeiks," which give the dew point and relative humidity. During

the last session of the Fortieth Congress, and the first session of the Forty-first Congress, while employed as assistant engineer in the heating and ventilating department of the House of Representatives, I began using the "evaporator," situated in the main air-duct leading to the Representatives' Hall, and, by careful application, commencing at 8 a. m. and continuing it until the hall was heated up to the usual temperature of 69°, I soon discovered that the ventilation of the hall was greatly improved, and I am fully convinced that it was due to hydration, as the evaporator had not been in use for several years. In a report made by Charles M. Wetherell during the Thirty-ninth Congress, first session, on warming and ventilating the Capitol, page 80, he says:

"The winter experiments are very interesting, and indicate the cause of the complaints which some have made as to the ventilation. They demonstrate that the difficulty lies in a deficiency of moisture in the air. The absolute dryness of the air in the winter is great, and its relative dryness is vastly increased after it has been raised to the temperature requisite for heating the halls. It will not be necessary to take up the results seriatim to prove this. A glance at the table will show how low the degree of relative humidity is; even when, as in Ex. 56–61, the relative humidity of the external air is 100, that of the halls is below the healthy minimum, and, at times, the moisture falls to 20. The mean relative humidity at 2 p. m., for the external air of the five Januarys of table 1, is 67. The remedy for this defect consists in adding to the air of the halls from sixteen to thirty-five pounds of water per minute for a ventilation of 60,000 cubic feet of air per minute. This moisture must, as was said, for the summer experiments, be added intelligently. Too much water would be as injurious as too little."

The shafts or avenues of escape, which were found closed off, have been opened. They lead from the space between the ceiling and the roof of the Senate chamber, down to the sub-basement, and there they are connected to ascending shafts which lead to the open air. I found them both, however, inadequate, for whatever of escape did take place was insufficient and irregular from defective arrangements. I was at once convinced of the importance of having exhausting power applied at the point where the vitiated air could be removed, and I am indebted to the honorable Secretary of the Navy for the temporary use of one exhaust fan, with engine attached, which has been placed in a horizontal portion of one shaft leading from the descending shaft to the ascending one in the lower basement. The fan has a capacity of about one-fourth as compared with the entrance movement, produced by the fan for the introduction of fresh air. Being unable to secure another exhaust fan for the other shaft, I have substituted a coal stove, which, however, is not equal to an exhaust fan, but assists in the removal of the impure air.

The fan used to supply the committee rooms and passages being of no use in warm weather, owing to the doors and windows being open and the registers generally kept closed, the fan used for the Senate chamber being inadequate to force in a sufficient supply of fresh air during the months of May, June, and July, and more particularly during the evening sessions, I have connected the two main air-ducts so that both fans can be used to increase the supply of air in the chamber when necessary, or may be used separately as before. This improvement having been completed on the 15th of last August, and the experiments on the 20th of the same month, will show the following results. The following tabular statement will show that by a circulation of water through the coils of pipe that are located in the main air-duct used for heating the chamber in cold weather, also allowing a sheet of water to pass down both air-ducts, will not only reduce the temperature to that degree which will keep the chamber moderately cool and comfortable, but will remove all dust that is drawn in by the action of the fans. The following will show the results of the experiments, August 20th, and the different degrees of temperature:

Time.	External air.	Main air-duct.	New air-duct.	Senate chamber.	Galleries.	Space above ceiling.
	°	°	°	°	°	°
10 a. m.	95	95	95	90	92	100

At 10.15 a. m. both fans on Senate chamber evaporators and exhaust fan in operation:

Time.	External air.	Main air-duct.	New air-duct.	Senate chamber.	Galleries.	Space above ceiling.
	°	°	°	°	°	°
11 a. m.	100	85	80	82	85	105
12 m	103	80	78	81. 5	83	108

At 12.15 p. m. the fans were stopped. Had they been in operation longer, the results would have been still more favorable. Many complaints having been made on account of the dryness of the atmosphere in the winter season in the committee rooms and passages of the Senate wing, I have endeavored in part to obviate this difficulty by placing evaporating pans over the top of each one of thirteen coils which heat the above-mentioned rooms and passages, leading water pipes into the same with valves to regulate the supply of water in order that the heated atmosphere may take its own supply of moisture before reaching the registers leading into the said rooms and passages.

In view of the favorable results obtained by the evaporation of water above the coils, I therefore recommend that evaporating pans be placed over the remaining fifteen coils.

Many complaints having been made by the honorable Senators and others in reference to the descending currents of cold air from the ceiling and over the sides of the galleries down on the floor of the chamber, this defect has been referred to by several gentlemen of high scientific attainments, who have written interesting and very able reports on the ventilation of both wings of the Capitol. I am, however, unable to find any remedy recommended by them. In a report on the warming and ventilating of the United States Capitol, by Professor Joseph Henry, he says:

"It is true that in some cases during cold weather descending currents of cold air have been observed, due to the cooling of the ascending columns as they come in contact with the under surface of the roof, as was evident from the odor of gas when the burners above the ceiling were first lighted. That there is a tendency to form such descending currents is clear, since, unless the air is immediately withdrawn from the space beneath the roof before it is cooled, and thus rendered heavier than the ascending air, it will descend in parallel streams, but to determine how frequent and extensive these currents are, further experiments will be necessary."

Experiments on the 8th, 9th, and 10th of January last show that the descending currents of cold air seemed to be confined to the northeast and southeast corners of the chamber, commencing at the Vice-President's chair and extending around to the doors leading to the rotunda. On the northwest and southwest sides the currents ascend with considerable regularity. The cause of this defect—the descending currents of cold air from the ceiling—is owing to the difference of temperature at the ceiling and the space above it, and the material of which the ceiling is composed.

The heated air ascends until it comes in contact with the cold, metallic surfaces, when it becomes suddenly reduced in temperature below that on the floor, and all that fails to pass through the perforations becomes heavier than the air below, and will therefore descend until it reaches the floor. Coils of steam pipe have been placed above the square registers located in the space above the ceiling, so that the temperature of the atmosphere can be raised to or above that of the air on the chamber floor, which, I believe, will obviate in part, if not entirely, this difficulty, for whenever the ceiling is lighted I find that the cold air ceases to descend; the steam can then be closed off. For the purpose of improving the present method of ventilation of the Senate chamber, I respectfully recommend that escape pipes be made and connected to the square registers located in the space above the ceiling, and that they be conducted into the escape shafts, and all other perforations be closed, so that the gas-lights above cannot affect the air in the chamber, and that the shafts of escape be enlarged so that they will have a capacity adequate for the removal of vitiated air, and that two exhaust fans, having a capacity of three-fourths as compared with the fans for the introduction of fresh air, be placed in the sub-basement for that purpose.

The expenses attending the improvements herein recommended are as follows:

Two exhaust fans	$4,000
One engine	2,000
Escape pipes	800
For enlarging escape shafts, and setting engine and fans	1,500
	8,300

It will be seen, therefore, that, with a comparatively little expense, a pleasant and wholesome ventilation can be secured, without producing any unpleasant currents whatever.

Respectfully submitted.

H. F. HAYDEN,
Chief Engineer Heating and Ventilating Department U. S. Senate.

Hon. J. W. NYE,
Chairman Joint Select Committee on Ventilation.

ARCHITECT'S REPORT ON PROPOSED IMPROVEMENTS.

ARCHITECT'S OFFICE UNITED STATES CAPITOL EXTENSION,
Washington, D. C., February 6, 1871.

SIR: I have the honor to state herein the changes which have been made under the direction of your honorable committee, in order to improve the lighting and ventilation of the hall of Representatives.

A row of iron panels around the skylight in the ceiling has been taken out, and panels of ground glass substituted. Gas-lights have been placed over these. The louvres or blinds under the outer skylight have been so arranged as to admit of all on one side being adjusted at the same time, thus rendering it easy to open all the light, or to so cut it off as to prevent the rays of the sun from coming into the hall.

No change has been attempted in the system of ventilation, but some efforts have been made to make it more efficient and to correct some disturbing causes.

The under side of the copper roof has been plastered, by which radiation in cold weather, causing draughts to descend, particularly at the back of the galleries, has been overcome.

The galleries have likewise been made more comfortable by converting the space between their floors and the ceiling of the coat rooms below into an exhausting chamber, instead of hot-air ducts, as heretofore.

Fire-places have been made in the cloak rooms, and ventilators placed over all gas-lights, running to the hot flues. Windows have been pierced at several places at the ends of these rooms. These constitute the principal changes, and, so far as I have observed, they have been attended with marked success.

There are other improvements which observation and experience suggest, which, if executed, will, in my judgment, go far in perfecting the present system of heating and ventilation.

The flues for the egress of foul air should be enlarged. At present the area of discharge is 25 superficial feet, while the flues are capable of being enlarged to twice that capacity—a size sufficient for all purposes.

The under side of the roof over the corridor should be plastered to prevent radiation and air leaks, and ventilating caps should be placed over these corridors, so arranged that in cold weather, when strong winds from a southerly direction pack against the dome, they may be closed, to prevent currents of cold air descending. I suggest also that the small registers in the floor be taken out, as they are now receptacles for dust and tobacco, and their places supplied by registers in the front and ends of the platforms. In case the change of the register is made I would recommend that the old floor, which is nothing but a piece of patchwork, be taken up and a new floor of walnut put down.

The heating flues under the floor should also be rearranged. I will here state, as I have already verbally, that I consider it very important to the proper working of the heating and ventilating apparatus that an attendant should be placed in the loft to attend to the adjustable parts there, as the weather and the state of the light and winds may demand. Below is submitted the estimated cost of the further improvements herein proposed:

Enlarging foul air shaft	$2,500
Plastering ceiling of corridors	500
Readjusting flues under floor	1,000
New register	500
New floor of walnut	4,000
	$8,500
Eight ventilators on roof	1,200
Total	$9,700

If your committee should determine to use fans for the expulsion of the vitiated air, a further sum of $7,500 would be required for them and for the necessary steam-engine.

Very respectfully, your obedient servant,

EDWARD CLARK, *Architect.*

Hon. THOMAS A. JENCKES,
Chairman Select Committee on Ventilation,
United States House of Representatives.

ARCHITECT'S REPORT ON COOLING APPARATUS.

ARCHITECT'S OFFICE, UNITED STATES CAPITOL EXTENSION,
Washington, D. C., February 23, 1871.

SIR: I have examined the proposition of Mr. L. Bouvier for cooling the corridors of the House of Representatives by means of Tellier's refrigerating machine.

Mr. Bouvier says, to effect this, all the doors and windows leading out from the corridors must be kept as securely closed in summer as in winter, and that double partitions, with doors, must be put in at each end of the connecting corridor. This arrangement, I consider, would prove very unsatisfactory, if not impracticable; it would further aggravate what many consider the most objectionable feature in the present plan—the absence of lateral ventilation. While I am anxious to see experiments tried to obtain more comfort, yet I consider this undertaking unreasonably expensive to obtain, at best, a doubtful result.

I would be glad to see a small refrigerating machine used in the main air duct, in order to lower the temperature a few degrees in hot weather, which, I believe, could be done at an expenditure of a few thousand dollars.

The papers referred to me are herewith returned.

Very respectfully, your obedient servant,

EDWARD CLARK,
Architect.

Hon. THOMAS A. JENCKES,
Chairman Committee on Ventilation,
United States House of Representatives.

Hon. THOMAS A. JENCKES:

DEAR SIR: At your request, please find estimate for making a change in the arrangement in lighting the ceiling of the hall of Representatives, viz: To light the new border panels without lighting the center panels, it will require an independent service pipe, running the entire length of the border panels, as also an independent magnetic engine for turning on or off the gas with one line of isolated wire. The following is a correct estimate:

For 2 ½-inch gas-pipes, with fittings, &c., complete	$450 00
For magnetic engine and stop-cock complete	500 00
For isolated wire	6 00
For electric connection key to instrument	5 00
For labor	80 00
	1,041 00

Yours, respectfully,

SAM'L GARDINER,
Electrician.

The committee ordered the work, for which the foregoing estimate was made, to be done, and have paid for the same out of the appropriation to be expended under their direction. The beneficial effect of the alteration can be perceived whenever the lighting of the hall takes place during the twilight. The burners over the new plates of ground glass sometimes furnish sufficient light for the hall without lighting those over the large squares. Until this alteration was made all the burners had to be lighted at the same time.

EFFECT OF HEAT FROM THE BURNING GAS IN THE SENATE CHAMBER.

Temperatures of the United States Senate, June 24, 1870.

Time.	External air.	SENATE CHAMBER.				GALLERIES.		BELOW CEILING.				ABOVE CEILING.			
		Northeast corner.	Southeast corner.	Northwest corner.	Southwest corner.	North side.	South side.	Northeast corner.	Southeast corner.	Northwest corner.	Southwest corner.	Northeast corner.	Southeast corner.	Northwest corner.	Southwest corner.
	°	°	°	°	°	°	°	°	°	°	°	°	°	°	°
7 o'clock p. m..	86.0	83.5	83.5	83.0	83.5	83.0	83.0	88	88	88	88	90	90	89	92
8 o'clock p. m..	85.0	84.5	84.5	84.5	84.5	84.0	84.0	88	88	88	89	123	125	125	125
9 o'clock p. m..	84.5	85.0	85.0	85.0	85.0	84.0	84.0	89	89	89	89	122	122	122	122
10 o'clock p. m..	84.5	84.5	84.5	84.5	84.5	83.5	83.5	88	88	88	88	122	122	122	122

PROPOSITION OF HENRY A. GOUGE.

To the Honorable John Covode, Chairman of the Committee on Public Buildings and Grounds:

SIR: In presenting my system of ventilation for the consideration of your committee, I beg leave to call your attention to the following:

The present appliances for ventilating the House of Representatives fail utterly to accomplish that object. It is true that currents of fresh air are *forced into* the apartments, but they, from their nature, put obstacles in the way of accomplishing the object sought, by producing counter or eddying currents; and, in addition to this, the means of egress for the vitiated air are inadequate and very imperfect. Of course, if air is forced *in*, air must be forced out; probably that was the theory on which the present system was based. But in this case the greater portion of air thus forced in leaves the hall precisely in the condition it entered, and its egress is at the doors to a great extent.

The copper roof and space between the roof and ceiling are great obstacles in the way of ventilation, the more so because the space communicates, through holes in the ceiling, with the hall below. In the winter the heated air rises to the ceiling along the walls, and creeping thence to the openings in the ceiling to the cold space above where it is condensed, (the copper roof conducting off the heat very rapidly,) and falls of its own gravity through the openings nearer the center of the ceiling to the floor of the House, where its influence is disagreeably felt. The danger of a cold wind on an uncovered head need not be enlarged upon. In this case the danger to health is increased because the descending current has all the deleterious gases and impurities of the ascending current; some of it escapes, no doubt, but the accumulation when the hall is full of people is very rapid, as your committee well know, and I will not enlarge upon it; my object being merely to show why the apparatus used for ventilating the hall fails of accomplishing the duty. Its principal defect is that which I have stated.

The copper roof and space beneath it interfere with the ventilation in summer quite as much as in winter, although from different and nearly opposite causes. The roof absorbs the heat of the sun's rays, and communicates it to the air in the space beneath, and often raises it to a temperature 30° and 50° above that of the external atmosphere, thus heating the ceiling, which radiates powerfully on the heads below; and the eddies produced by the forced currents of air from the registers induce downward currents of this air from the reservoir above; thus the temperature of the apartment is kept up to a high degree. The eddying currents of air cannot be avoided where direct streams are forced.

My system consists of forcing the vitiated air out of the apartment, and supplying its place with pure air from outside the building. It will absolutely prevent the currents of cold air from above in the winter and hot air in the summer, as it is my purpose to destroy communication between the hall and the reservoir above, and to prevent radiation from the ceiling. This can be done very easily.

My system of ventilation will, without the aid of any machinery, or power applied externally to the ventilating tubes, completely *change the air in the hall as often as may be desired*; fresh air being constantly supplied through tubes under the floor and furnished with registers.

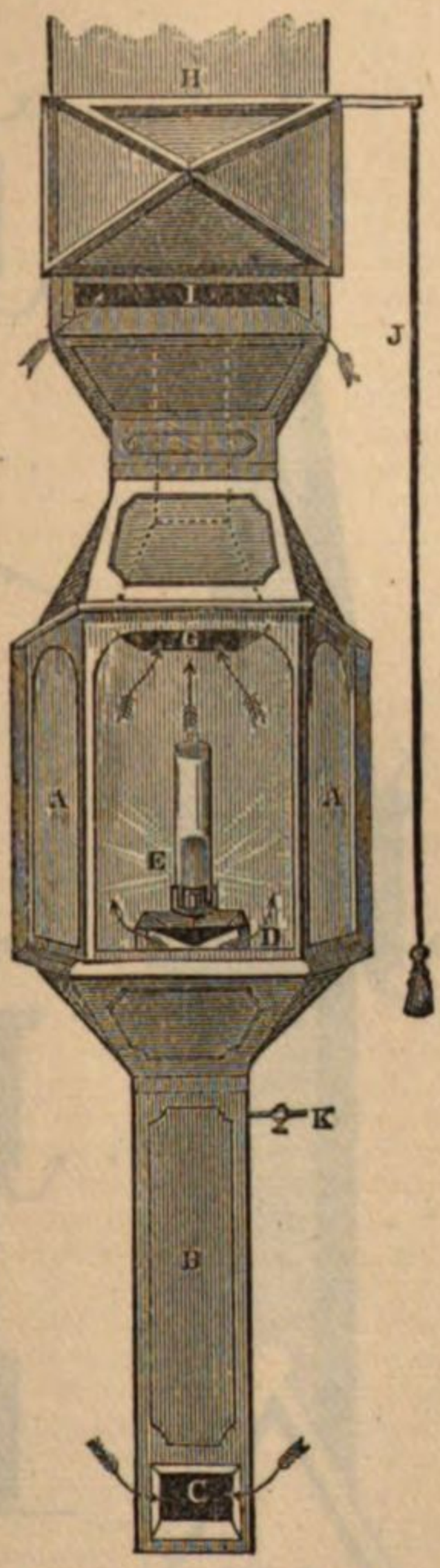
To prepare the hall for my ventilating tubes to work successfully, it will be necessary to close up the holes in the ceiling, which are fruitful sources of trouble, not only as regards ventilating, but also by interfering with the acoustic properties of the hall. To do this I propose to cover the entire ceiling, excepting the glass panels, with hair felt, which, being a non-conductor of heat, will effectually prevent the ceiling from being affected by the temparature of the space above it, and by this single precaution overcome two very important difficulties in the way of perfect ventilation.

My ventilating apparatus consists of tubes running from the floor to a proper distance above the roof. These tubes are provided with openings at the floor, ceiling, and such intermediate points as may be deemed expedient. In the tubes, and at a proper distance above the floor, I place a lantern containing an "argand" or other burner, consuming gas or whatever may be most convenient. The burner is placed in the center of the lantern and serves to produce a powerful upward current. By placing a pyramidal tube or inverted funnel over the burner the current of hot air is contracted and its speed augmented, which, entering a duly expanded tube above, induces another current of great force. Openings are provided above as stated, and the air supplied at these openings augment largely the ascending current, the tube being properly expanded at each opening.

To adapt this to the hall of the House of Representatives, the tubes are placed in the wall running up behind the niches in the gallery (twenty-eight in number) entirely out of sight, and extending down into the coat rooms under the gallery, where the lantern is placed, which, while giving motion to the column of air, sufficiently lights the apartments. Openings are made through the partition into the hall, at the floor, from

GOUGE'S ATMOSPHERIC VENTILATOR.

PATENTED MAY 26, 1863; APRIL 25, 1865; AND MAY 9, 1865.



A. A Ventilating Lantern, with an Argand burner.

B. Ascending flue or air duct.

C. Opening in duct at or near the floor, for the admission of air.

D. Diaphragm for regulating the admission of air to the gas jet at E.

G. Opening of interior flue for concentrating the heated and expanded air.

H. Ascending portion of the large flue or metalic air-duct, terminated above the roof by a weather cap.

I. Aperture into which the foul and heated air at the ceiling is drawn by induction.

J. Cord for opening or closing the register at I.

K. Tube for conveying gas to the gas-burner at E.

☞ The arrows indicate the up-moving currents of air.

☞ The combustion of the gas jet at E is supported by the air which enters at C, and along with this air, which acquires a powerful ascensional force through the burning gas jet, the carbonic acid, and other impurities, ascend and mingle with the heated air and lighter noxious gases which enter the ventilator at I, all passing upward and onward, by virtue of an irresistable motive power, until they are finally discharged into the atmosphere. See illustration, page 4, and "Further Explanations," etc, page 48.

WEATHER CAPS

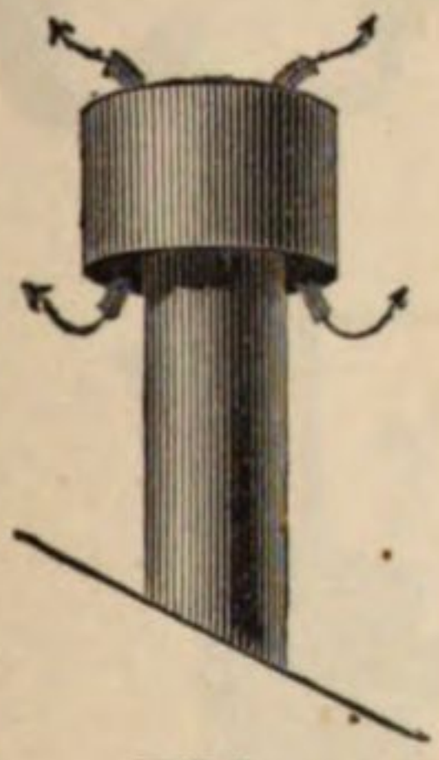


FIG. 1

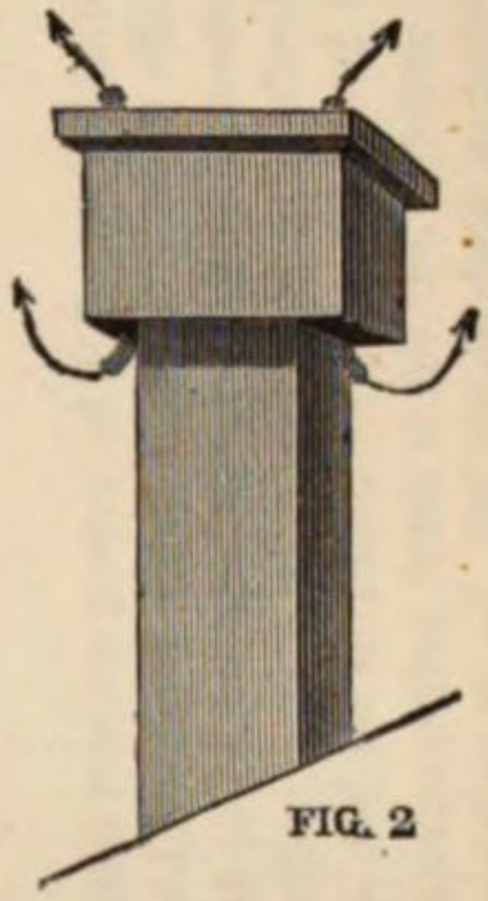


FIG. 2

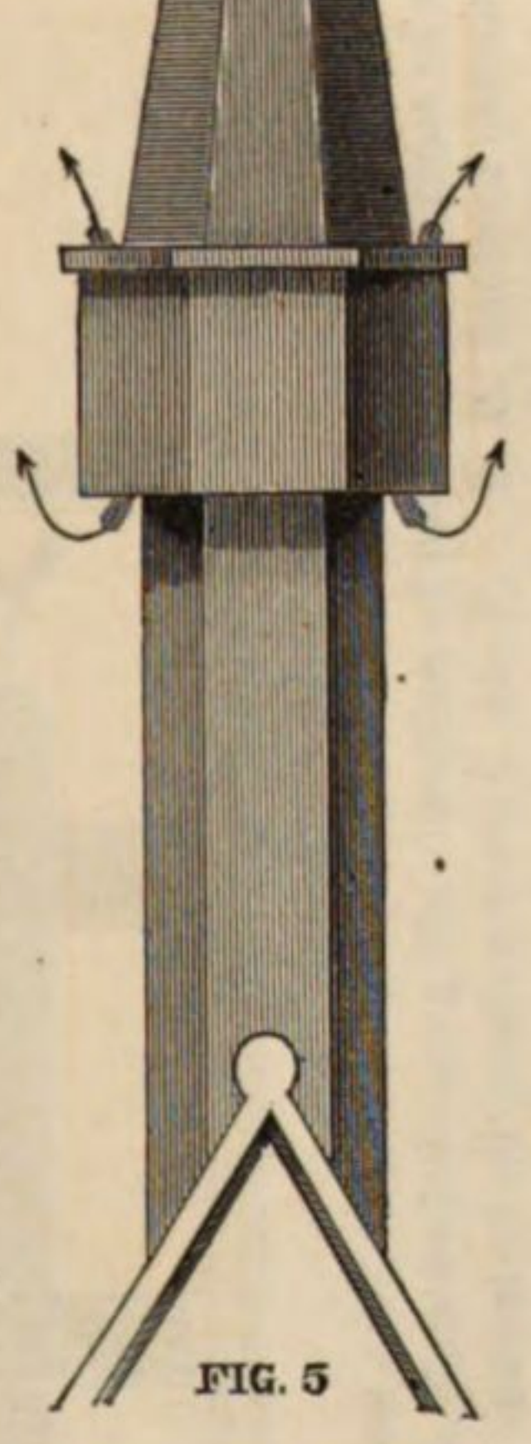


FIG. 5

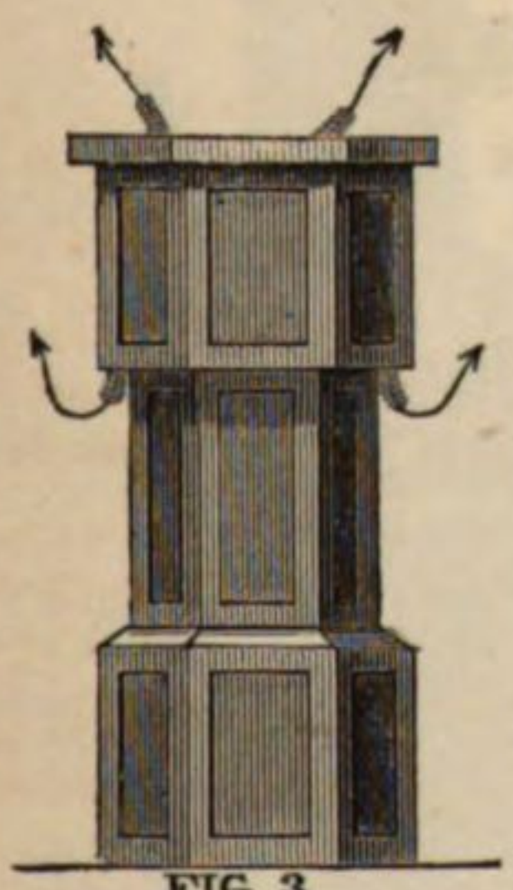


FIG. 3

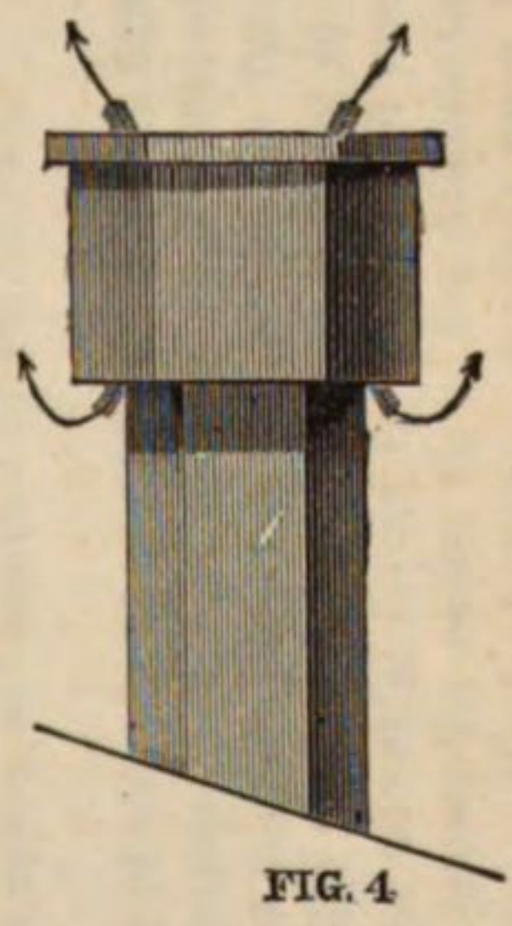
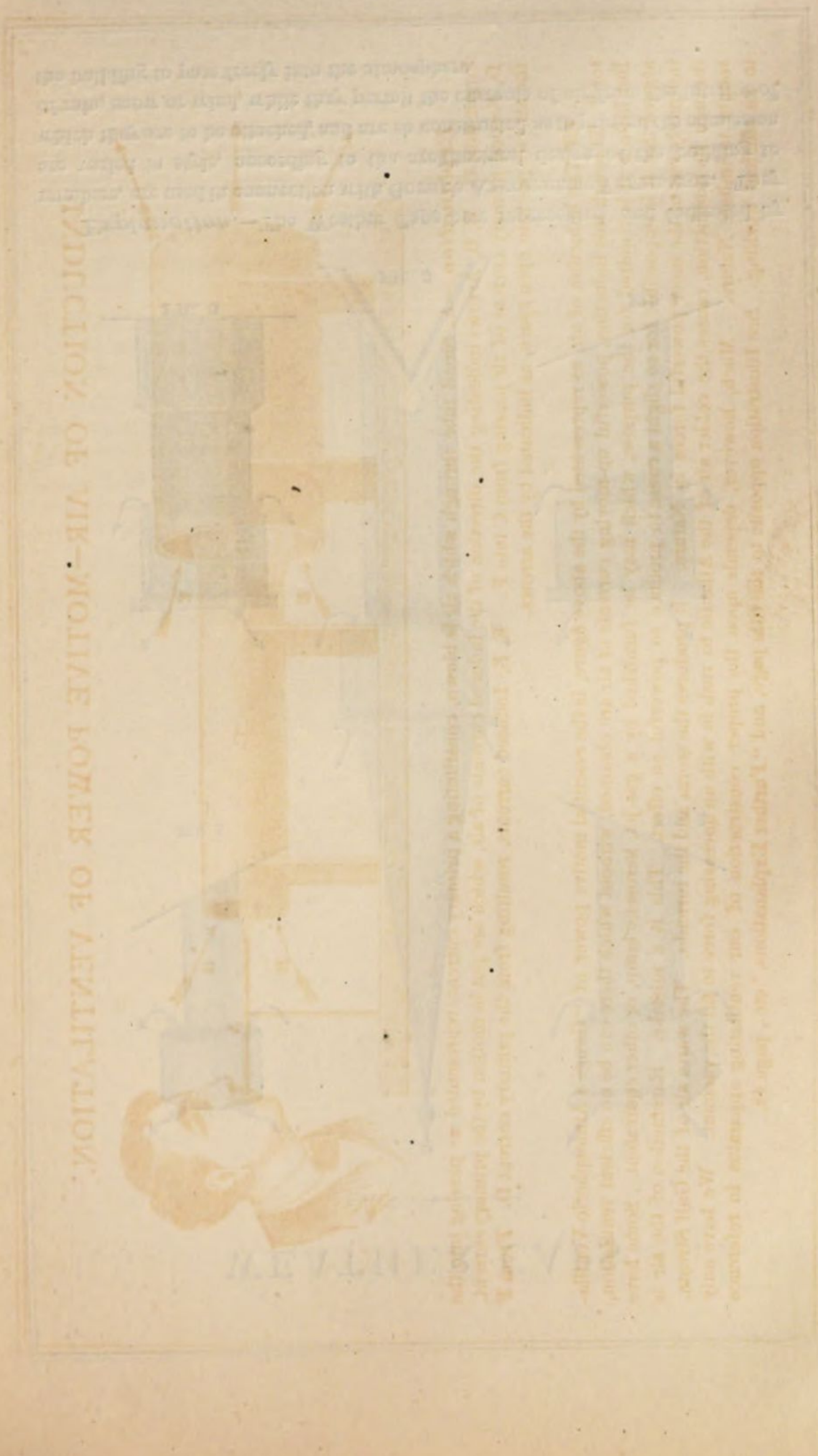
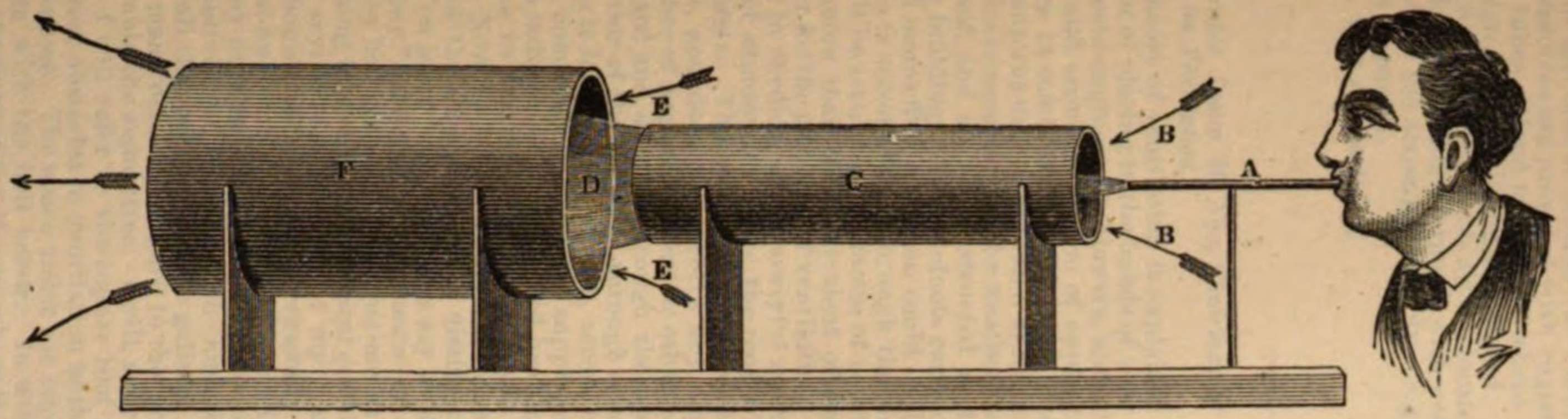


FIG. 4

Explanation.—The Weather Caps here represented, and indicated by numbers, are used in connection with GOUGE'S ATMOSPHERIC VENTILATOR. They are varied in style, according to the architectural design of the building to which they are to be attached, and are so constructed as to prevent the admission of rain, snow or wind, while they permit the currents of air from the interior of the building to pass freely into the atmosphere.

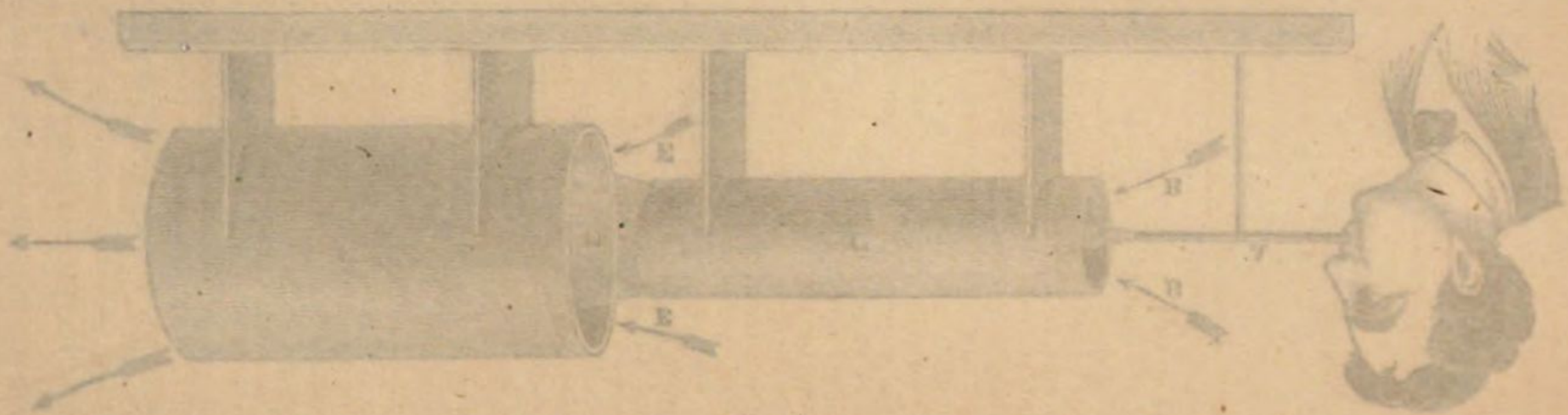

VOLTAIC BATTERY OF VARIABLE POWER

INDUCTION OF AIR—MOTIVE POWER OF VENTILATION.



Explanation.—A, Small tube through which air is blown, constituting a primary current, represented as passing into the larger tube C. B, B, Arrows indicating the direction of the induced currents of air, which are put in motion by the primary current. D, Second primary current of air passing from C into F. E, E, Induced currents, resulting from the primary current D. From F the air escapes into open space, as indicated by the arrows.

☞ The induction of air, as represented by the above figure, is the essential motive power of "Gouge's Atmospheric Ventilator." Through this induction, powerful up-moving currents of air are obtained, without which there can be no efficient ventilation. But little heat is required for the purpose, which may be furnished by a gas-jet, kerosene lamp, or other equivalent. Some have argued that it is impossible for so slight a cause to produce so powerful an effect. This is a mistake. Rarefaction of the air is indirectly one of the most powerful forces in Nature. It produces the storm and the tornado. The warm air of the Gulf Stream, through its rarefaction, causes the colder air of the Atlantic to rush in with an unceasing force to fill the vacuum. We have only sought to imitate Nature. Much, however, depends upon the proper construction of our ventilating apparatus in reference to its efficient working. See Illustration opposite to the title page, and "Further Explanations," etc., page 48.



INDUCTION OF AIR—MOTIVE POWER OF VENTILATION.

the coat-rooms where the air is by the ventilating tubes through the openings at the floor and ceiling. In the hall, above the niches and immediately under the ceiling, other openings are made for the admission of the lighter vitiated gases from the apartment. These openings are covered by neat and ornamental shields, which can be embellished with the coat of arms of the United States or other approved design. The openings themselves are provided with registers by which the flow of air can be regulated. The tubes extend to the roof, where weather caps, constructed in conformity with the design of the building, are placed.

The tubes for supplying fresh air are located under the floor leading to the open air, and provided, at their inner termini, with neat registers.

By reference to the accompanying drawings the operation and location of the ventilators will be apparent.

Yours, very respectfully,

H. A. GOUGE,
254 *Broadway, New York.*

To the Honorable James M. Nye, Chairman of the Joint Special Committee of both Houses of Congress on Ventilation:

SIR: My theory of ventilation is explained in my book on that subject, which I have had the honor of placing in the hands of your committee. It will be seen that I discard the use of steam-engines, fan-blowers, and all kinds of machinery, and depend upon a more simple and economical form of apparatus, namely, a system of metallic air-ducts or air-carriers, in combination with what I term "ventilating lanterns" and weather-caps. The lanterns may be regarded as induction tubes, and are also useful in diffusing light when this is necessary. The weather-caps are the termini of the metallic air-ducts above the roof, and are so constructed as to be in harmony with the architectural design of the building. The air-ducts carry off the poisoned air from the apartment to be ventilated more efficiently than could be done by the forcing operations of a steam-engine. This is accomplished through the simple law of induction, as explained in my book. It will be seen that the forces of nature, properly guided by the hand of art and science, are more than the equivalent of the steam-engine or any similar motive or forcing power for the purposes of ventilation. The vitiated air steadily ascends through the air-ducts in obedience to a powerful ascensional force, and finally mingles with the great ocean of atmosphere above the roof, where it can no longer poison the blood or stupify the brain. This result takes place without any superintending care during the day or night, and does not involve any expense, excepting what is necessary for a limited number of Argand burners or other equivalent lights. While the impure air is passing upward and onward through the air-ducts, the fresh external air is admitted into the interior of the building through appropriate channels to take its place. The in-flowing air is heated or otherwise, according to the necessities of the case. Thus, we have at our command a bountiful supply of fresh air, which I need not say to your committee is indispensable to life and health, as well as to physical and mental power.

A reference to my book will apprise you of a large number of public and private buildings in New York City and other places, which I have ventilated successfully. You will find the names of many distinguished and well-known gentlemen as my indorsers. You must judge of me by my works. My motto has been, and still is: "No success, no pay." I found in the course of my professional experience that immense sums of money had been paid for experiments in ventilation which proved to be failures, and not wishing to occupy an empirical position in the business of ventilation, I formed the habit of saying to applicants for my professional services that I would either ventilate their houses or buildings successfully or make no charge for my services. On this platform and with this pledge, I am willing to undertake the ventilation of the Capitol or any portion of the same. To be explicit, I will agree to ventilate the House of Representatives and furnish all the material and labor for $50,000. The ventilation will include all the rooms under the gallery.

There are many details in regard to the proposed ventilation with which, perhaps, I need not trouble the committee. I will, nevertheless, make a few explanatory remarks. First of all, I will refer to the copper roof and the space between it and the ceiling, which are great obstacles to ventilation both in summer and winter, but from different or opposite causes. The space under the copper roof communicates through apertures in the ceiling with the hall below. In winter the cold air descends through these apertures to the floor of the House, where it makes an unpleasant impression upon the members. It is also highly prejudicial to health, as it carries with it, in a condensed form, all of the poisons of the heated atmosphere. In summer the air space under the roof becomes exceedingly hot, and is frequently from 30° to 50° above the temperature of the external air. The ceiling becomes heated as a necessary consequence, and radiates its heat very uncomfortably to the hall below. Moreover, the forced currents of air from the registers induce downward currents of air from the heated reservoir above, which I need scarcely say is highly objectionable and prejudicial.

Should I ventilate the hall, as specified, it would be necessary for me to close the apertures in the ceiling, which, in addition to the objections already named, interfere with the acoustic properties of the hall. In doing this, it would be necessary for me to cover the entire ceiling, excepting the glass panels, with hair felt, which, being a non-conductor of heat, will prevent the ceiling from becoming heated in summer or chilled in winter, and thus two important difficulties in the way of ventilation will be obviated.

It will be a part of my plan to place the air-ducts in the wall, behind the niches in the gallery, (twenty-eight in number,) where they will be entirely out of sight. They will extend downward into the coat-rooms under the gallery, where the lanterns will be adjusted, and which, in addition to ventilating purposes, will sufficiently light the various rooms. I will not trouble the committee with further details, as I hold myself in readiness, if called upon, to furnish the committee with any additional explanations which they may desire.

I will add that I propose to make the air-ducts within the hall of galvanized iron, while the weather-caps, and everything above the roof, I propose to make of copper. This is also the judgment of the Architect of the United States Capitol, Edward Clark, esq., in which I entirely coincide.

I have the honor to subscribe myself, very respectfully, yours,

H. A. GOUGE.

NEW YORK, *March* 22, 1870—254 *Broadway.*

PLAN AND PROPOSITION OF ALBAN C. STIMERS FOR THE VENTILATION OF THE HALL OF THE HOUSE OF REPRESENTATIVES, SUBMITTED TO A SELECT COMMITTEE OF THE HOUSE IN THE FORTIETH CONGRESS.

[REPORT No. 19.]

OFFICE OF ALBAN C. STIMERS, NAVAL ENGINEER,
No. 45 *William Street, New York, December* 15, 1868.

SIR: Agreeably to your request that I should prepare for the committee a detailed report which should express my views upon the proper method of ventilating the hall more fully than was done in my letter to you upon this subject dated July 20, 1868, I beg leave very respectfully to submit the following report:

The term *ventilation*, when applied to a hall of this importance, should signify *the production and maintenance within doors of pure air, properly tempered with heat and moisture, regardless of the existing state of the weather.*

Thus, to maintain the air pure in any inclosed space occupied by persons, it must be constantly renewed; when the weather is cold, the air of renewal must be warmed; when it is hot, it must be cooled; when it is too dry, it must be moistened; and when it is too moist, it must be dried. Further: when air is warmed simply, its relative humidity is lessened; and when it is cooled, this is increased; so that generally, when air is warmed, it must be moistened; and when it is cooled, it must be dried.

Properly, however, the degree of moisture in the space ventilated should be as carefully observed as that of its temperature, and that which is most pleasant and healthful should be uniformly maintained, regardless of the condition of the outer air, or of the modifications which may have been made in its temperature.

A consideration of the subject is therefore properly divisible into the following heads:

1. The quantity of air necessary and how it should be introduced.
2. Warming and moistening the air in cold weather.
3. Cooling and drying the air in hot weather.

The subject of regulating the degree of moisture in the air when it is neither warmed nor cooled, is naturally involved in the above.

I. THE QUANTITY OF AIR NECESSARY AND HOW IT SHOULD BE INTRODUCED.

In treating of the quantity of air required for ventilation, writers generally refer to the number of cubic feet required per minute for each person in the apartment. This mode does not, however, take into consideration the vacant spaces where the air comes and goes without having come in contact with persons.

Every person is at all times surrounded by an envelope of vitiated air, and the thickness of this envelope is dependent upon the direction and velocity of the air past the person. Thus, the average man is 5 feet 8 inches high, and 1 foot thick from front to back. If, therefore, the direction of the current of air past the person is vertical, it will require to have $5\frac{2}{3}$ times the velocity that would be necessary, if the direction was horizontal, to maintain the same thickness or rather thinness of the vitiated envelope.

Dr. Wetherill, in his very interesting and able report on the ventilation of the Capitol extension, page 66, says:

"Hood (Warming and Ventilation, p. 261) estimates the air required for ventilation by the amount needed to take up the moisture from the skin and lungs. The air required for respiration (*i. e.*, oxidation) is very much less than that needed to hold in solution the vapor of the skin and lungs, which evolve 12 grains of water per minute. If the temperature of a room be at 60°, with a dew-point of 45°, a cubic foot of air will absorb 2¼ grains of vapor; or, in other words, the perspiration from the body will saturate 5¼ cubic feet of air per minute. If, however, we take the dew-point lower, say not to exceed 20° or 24°, then 3¼ cubic feet of air per minute will be required to carry off the insensible perspiration; while for the pulmonary supply one-fourth cubic foot will be needed, making a total of 4 cubic feet. In summer, as the dew-point is higher, more air will be needed, viz, 5 cubic feet per minute for summer ventilation."

In a foot-note to the above it is stated that Seguin gives the exhalation of water from the lungs, 7; from the skin, 11; total, 18 grains per minute.

This is undoubtedly the correct method of ascertaining the number of cubic feet of air vitiated by each person per minute, and, as will appear further on in this report, the dew-point should be maintained uniformly at 52°. Assuming this, we can make the calculation of quantity exact for this case.

A cubic foot of air at a temperature of 65°, with the dew-point at 52°, will absorb 2½ grains of vapor, and if we take the mean of the two authorities above cited, regarding the quantity exhaled by each person, we will have 15 grains per minute, and to absorb this under the above conditions will require 6 cubic feet of air. Add to this the one-fourth cubic foot required for breathing, and we have 6¼ cubic feet as the total amount vitiated per minute.

The surface of an average man is about 18 square feet. If, therefore, we imagine such a man walking in the pure open air at the rate of two miles an hour, on a perfectly calm day, the air will be flowing past him at the rate of 176 feet per minute, and, as he is one foot deep from front to back, the average thickness of the envelope of vitiated air which surrounds him may be found as follows:

Let a = The quantity of air vitiated per minute in cubic feet ..... = 6¼
b = The surface of the person in square feet..... = 18
c = The extent of the person in the direction of the current of air in feet. = 1
d = The velocity of the current in feet per minute..... = 176
x = The thickness of envelope in inches—

$$\text{Then } \frac{12\ ac}{bd} = x,$$

and $x = 0.018$, or $\frac{1}{55}$ of one inch.

In supplying air for the ventilation of a hall containing an assemblage of people, however, it is absolutely essential that the direction of the current should be vertical; otherwise that which has been vitiated by one person will be given to another to breathe and perspire into.

If, now, we assume a man standing upright of the average height of 5 feet 8 inches, and the velocity of the current at 5 feet per minute, we will have for the value of the terms in the above formula:

$a = 6\frac{1}{4}$
$b = 18$
$c = 5\frac{3}{8}$
$d = 5$

Whereupon $x = 4.16$ inches.

If this envelope of four inches thickness of vitiated air be drawn upward, it is clear that the nose and mouth will be always supplied entirely with vitiated air, no matter how pure it may be one foot away; while, if it is drawn downward, those organs will always be supplied with perfectly pure air.

This consideration alone is quite sufficient to determine us in favor of the downward direction; there are, however, some other advantages in the downward over the upward direction, which it may be well to state.

The temperature of the human body rarely varies 2° either way from 98°, a sudden variation of 5° or 6° being said to be fatal. If, therefore, the air is supplied at a temperature of 65°, it will be 32° cooler than the body; with the downward current the head will be in this cool air, while the feet will be inclosed in an atmosphere nearly if not quite as warm as the blood within them. And to "keep the head cool and the feet warm" is one of the fundamental rules of hygiene as well as of comfort.

A current of air coming up through the floor will always bring along with it the fine dust, which the greatest care cannot prevent accumulating there to an extent which renders it unpleasantly sensible in all assemblages supplied with an upward ventilation. With the downward ventilation it is only necessary that the dust shall be thoroughly removed from the inflowing air at the mouth of the inlet duct to maintain the hall perfectly free from dust. To say nothing of the advantages of this on account

of health, the freedom from dust upon the papers to be handled is a luxury every one would keenly enjoy.

Again: with upward ventilation the entire hall is filled with vitiated air, the vitiation having taken place near the point of admission; while with downward ventilation the vitiation takes place near the point of exit, and the whole upper part is full of pure air.

The height from floor to ceiling of the hall is 36 feet; if, therefore, the air is admitted through apertures well distributed in the ceiling, it has 30 feet to move before it comes in contact with the heads of persons on the floor. During this movement all eddying currents, induced by the increased velocity with which it is necessary that it shall pass through the apertures, have become quiet, and the whole mass descends with a uniformity impossible to obtain in the vicinity of the persons ventilated with upward ventilation; and one of the most important considerations to be kept in view in ventilating an apartment is to avoid perceptible draughts.

Mr. Goldsworth Gurney, in his examination before a committee of the House of Lords of the British Parliament, March 24, 1854, said, in reply to the question:

"In those courts which you have ventilated you have found your system answer?

"Yes, we have found the down-current always more agreeable. The up-current is sometimes used, but it is not so pleasing, and not so effectual."

The hall of the Massachusetts house of representatives has recently been provided with new ventilating arrangements, and the downward system has been adopted. The success of the entire arrangement is said to be highly satisfactory.

One objection brought against the downward system is that it is against nature to force air downward. Although this opinion is entertained by an extremely large number of otherwise well-informed persons, every engineer of ordinary attainments knows perfectly well that it is as easy to force air in one direction as another.

Another objection is, that as the air is warmed at the same time that it is vitiated, that which is thus vitiated and warmed has a tendency to rise, whatever may be the direction of the general mass surrounding it. This is true, but this tendency is so feeble that its opposition to a current of 5 feet per minute would not be perceptible.

It has been shown that with a vertical current of 5 feet per minute, the mean thickness of the envelope of vitiated air surrounding a man of the average size, when standing, is 4 inches. This is more than two hundred times as thick as when he is walking at the rate of two miles an hour in a perfect calm. As, however, the air is to be brought from such a direction that the mouth and nose are always supplied with air of absolute purity, and the velocity is sufficient to insure the control of its direction by the mechanical means employed, I have assumed it for the *minimum* velocity to be given.

When the weather is fine, or, in other words, when the outer air, from which the supply is derived, is in the desired condition as regards temperature and moisture, and no expenditure is required upon its condition, then a *maximum* amount may be given, the *minimum* being employed when its condition as regards temperature and moisture has to be changed to the greatest extent. The only limit to the amount of air it will be advantageous to supply is that fixed by the rule that the currents past the person must not be sufficiently rapid to become sensible. Some persons are sensible to currents of much lower velocity than is required to render others conscious of them. Most people can feel a current having a velocity of 150 feet per minute; very few can perceive one of 90 feet per minute. To be quite sure that no one, however delicate, should be conscious of being in a current, I would fix the *maximum* velocity at 50 feet per minute. This will render the average thickness of the envelope of vitiated air surrounding each person, when standing, two-fifths of an inch thick, or twenty times thicker than when he walks at the rate of two miles an hour in a calm. This is stated to show that the *maximum* velocity adopted is not an extravagant one.

The hall is 139 feet 4 inches long by 93 feet wide. The downward current within it would, therefore, have a transverse area of 12,958 square feet. A velocity of 5 feet per minute would then require a supply of 64,790 cubic feet; and one of 50 feet per minute, 647,900 cubic feet per minute. In the arrangement I would propose, the various committee and other rooms would be supplied from the same source as the hall, and to supply these the foregoing quantities should be increased to 80,000 and 800,000 cubic feet respectively. The provisions for heating, cooling, moistening, and drying the air, should therefore correspond with the lesser, while those for propelling it into and out of the building should be adequate to control the greater of the above quantities.

The first method adopted by engineers and architects to give movement to air for the ventilation of mines and buildings, was to heat an upflowing column, thus lessening its specific gravity, and causing it to rise with corresponding force. That system is still employed in the British houses of Parliament, where, in each of its many towers, a charcoal fire is kept burning, and thus a force obtained to propel the air through the building.

It has been practically demonstrated, however, that one pound of coal burned in the furnace of a steam-boiler which furnishes steam to drive a fan-blower, will generate as

much force, and consequently is capable of producing as strong a current of air, as 38 pounds expended in heating a column of air to act by its diminished gravity.

English mining engineers commenced about ten years ago to apply fan-blowers to the ventilation of mines. The French had previously adopted the same practice. In addition to the economy of this method, the complete control which the attendant is enabled to maintain over the quantity of air supplied at all times, is found to be of great advantage.

To propel the air into the hall, therefore, I would employ four fan-blowers, having a capacity of 200,000 cubic feet per minute each. I would place these near the northern end of the large central chamber in the cellar, as shown in the plan of foundations, Plate I, and in the sectional elevations of the House wing, Plates II and III, attached to this report. Thence the air passes both east and west, as shown by the arrows, to the extreme ends of the building, where it passes up through shafts situated between the grand stairways and the outer walls to the chamber above the ceiling. Here I would provide an additional ceiling of plate glass and iron, of double thickness, that it might be a non-conductor of heat, and above this I would fix the gas-burners. This forms an air-duct, as shown by the sectional elevations, Plates II and III, of such a character that the air may be thoroughly distributed over the ceiling before passing into the hall. As the glass would be of the best quality of clear plate, it would be no perceptible obstruction to the light, while, as there would be six inches depth of confined air between the two thicknesses, neither the heat of the summer sun nor that of the numerous gas-lights would raise the temperature of the inflowing air; and in winter it would equally protect the warmth which had been previously given to it. Openings through the present ceiling would be provided, such that its present ornamental appearance would not be changed, and an equal area of opening would be obtained in each of the 165 squares into which it is divided.

To insure the continuance of the air thus admitted through the ceiling in a direct vertical line down to the floor and to the galleries, frequent openings throughout their extent, which should communicate to the air-chamber beneath the floor, would be provided, as shown in Plates II and III, especial means being provided to prevent the foul air from the galleries from flowing down upon the members on the floor; and from these I would withdraw the air by means of four fan-blowers of equal dimensions with those employed to drive the air in, but I would drive them only three-fourths the velocity given the others, as the air which ventilated the committee rooms, though supplied from the same source, would not pass through these. These blowers are shown at the ends of the building in the illustrations. From them the air passes up through a separate duct, by the side of the pure air-duct already mentioned, back of the grand stairways, and goes off through the roof.

All these blowers would be driven by one pair of engines of 750 horse-power, through the medium of appropriate gearing, shafts, and belts, as shown in the plates. In every case of gearing there would be wooden teeth working into cut-metal gear, which, it is well known, may be made to run with perfect silence, and is more durable than metal gearing. By running all the blowers from one engine, a uniform relation of the forces employed in different localities is thoroughly secured under all circumstances.

It will thus be perceived that the air would be driven in through the ceiling and drawn out through the floor with equal forces, and that if the doors are left open into the corridors, either from the floor or from the galleries, there will be no tendency for the air to flow either into or out of the hall. At present the provision for the egress of the air through the ceiling is so much greater than that for forcing it up through the floor, that there is a constant flow into the hall from the corridors through every open door, both on the floor and in the galleries. (*Vide* the Hon. John Covode's report on the ventilation of the hall of the House of Representatives, made June 20, 1868, p. 2.)

If the forces employed to drive the air in through the ceiling were greatly in excess of those provided for drawing it out through the floor, and the doors were left open, the direction of the current would be changed from the direct vertical line to oblique ones toward the doors, and while those sitting near the walls might get their full share of pure air, those in the center of the floor would not.

Again, if the forces for withdrawing the air were greatly in excess of those for supplying it, the air would flow into the hall from the corriders through the open doors, disturbing the direction and equal distribution of the pure air, and interfering with whatever modifications there had been made in its condition as to warmth and moisture.

By the plan proposed, however, complete control is maintained over the direction and velocity of the entire mass of air which fills the hall.

Messrs. Shedd and Edson, in their report on ventilation to a committee of the Massachusetts house of representatives, dated January 1, 1865, remark in regard to this as follows:

"As regards the manner of applying the power to effect the change of air, it is sometimes applied to the exhaustion of the foul air, and sometimes to the supply of the fresh air. Either way is effectual in a degree, but neither alone accomplishes quite all

that is to be desired. Forcing the fresh air in abundantly will drive out the air already in the hall at every outlet, and it is essential for security against the intrusion of cold currents through cracks and doorways. But it will drive out mainly at the easiest outlets, and some of the most important may be neglected, because of being out of the easiest way for the air to pass. The only sure way to get the air out just where you want it to go out, is to apply an exhausting force at the outlets to guide and assist the expelling force. The filling method is called the plenum method, and the exhausting the vacuum method. Much has been said about the superiority, for working vigor, of air in a plenum, or over-pressure condition. There is no doubt of the fact that under a high atmospheric pressure a man has greater power than under a low pressure. But the amount of superior pressure that can be obtained in a common hall is very slight, and can hardly have a perceptible effect. A nearly even balance of the filling and exhausting forces, making the in-door barometer about the same as the out-door, but with the filling force enough in excess to keep out all air seeking to enter without leave, is the most economical and satisfactory condition to obtain."

PLACE OF OBTAINING THE AIR.

In the report of Senator Buckalew to the Senate from the Joint Select Committee on Ventilation, made February 20, 1865, he says:

"The air for ventilating the halls is now taken from the levels of the terraces, between the wings and the old Capitol building, on the western side. To these situations much dust and other impurities are carried by the action of the winds, subjected to the influence of eddies, and taken with the air through the ventilating passages into the halls. And in warm weather, the terraces and adjoining walls, becoming heated, affect very considerably the temperature of the air obtained. Reference upon this point of the inquiry is made to the testimony of Dr. Antisell, and Mr. Forney, the engineer in charge of the ventilation of the House of Representatives. It is manifest that the air introduced into the halls should be obtained from places not subject to the accumulation of impurities, or to the undue production of heat."

The architect of the Capitol extension, Mr. Edward Clark, in a report dated November 1, 1866, states:

"Objections have been made to the fresh air source. The present inlets are near the angles of the wings and connecting corridors, and are liable at all times to admit dust, and oftentimes do admit other impurities thrown from the windows. Besides, the air at this place has an increased temperature in summer, obtained from the reflection from the heated walls and pavement.

"In order to obtain a purer, and, in summer, a cooler supply of air, it is proposed to construct an underground duct, opening in the eastern grounds, which opening could be made an ornamental feature by placing a fountain in its center. The jets and overflow would assist in cooling the air and to rid it of any mechanical impurities with which it might be charged. A separate duct and fountain will be required for each wing."

Mr. Charles F. Anderson, an architect and civil engineer, in a report to the Joint Select Committee on Ventilation, &c., says that the present plan "receives the exterior air under the ground floor from off the surface of the overheated and dusty terraces, furnishing much of the bad air from beneath, carried to its surface by evaporation and side currents of air from the ground; and this air is also tainted with much of the odors caused by the machinery near which it passes."

This gentleman proposed the erection of high towers to serve as openings to the inlet ducts, but as it is well known that the dust on a windy day rises as high as the top of the dome, these would not be an efficient remedy.

I would propose a modification of the plan of Mr. Clark, the architect, as already quoted from his report.

I would place the mouth of the tunnel in the western instead of the eastern park, partly because it is nearer, but more because the prevailing winds are from that direction, and the foulness from all the horses, which are numerous in the vicinity of the eastern park, would be avoided.

At a distance of 194 feet from the western front of the House wing there is a beautiful spot, completely canopied with the boughs of ten or twelve trees, which stand in a circle of about 50 feet in diameter. In the center of this circle I would make an opening 25 feet diameter and 24 feet deep. Over this I would erect a substantial wire screen, 25 feet diameter at the base by 22 feet in height, and similar in form to the Capitol dome. It would be made of quarter-inch wire, of pure block tin, that it might be durable, and always clean and healthy. The meshes would be of about 1¼ inches. Over the top of this there would be a revolving fountain with four jets, each of which would project downward in an oblique direction, and throw a small stream of water with force upon the wire work of the screen.

It will be readily understood that this arrangement would keep every wire covered with an envelope of clean water, against which the entering air would have to rub in

passing in. This forcible contact would transfer the dust from the air to the water. The muddy water would fall to the bottom of the duct and pass away by the drain through an appropriate trap.

From the bottom of this vertical opening a tunnel would extend horizontally to beneath the blowers in the center of the cellar; and these blowers are so inclosed as to draw their air wholly from this source. The tunnel is 15 feet in diameter, and the top of it passes 16 feet below the lowest point of the foundations of the building. Its horizontal length would be about 300 feet. The entire tunnel would be lined with brick and cemented in the most substantial manner. Around the inlet screen there would be a granite coping and marble curb, to correspond with the fountains in the same park, except that the curb would be 4½ feet high, in order that the air drawn in should come from an upward direction. This arrangement is clearly shown in Plate IV. The valve for supplying the fountain would be situated in the engine-room.

Thus the air would be drawn down through the foliage of the trees into a clean passage, coming in contact afterward with nothing which could vitiate its purity until it had performed its functions of ventilation.

II. WARMING AND MOISTENING THE AIR IN COLD WEATHER.

There are three methods in common use for warming the air of ventilation in buildings: 1st, by passing it over iron surfaces which are heated directly with fire and the products of combustion; 2d, by passing it over iron pipes filled with steam; and 3d, by passing it over iron pipes filled with hot water. The first of these methods is considered as so highly objectionable as to be entirely discarded in first-class buildings. When air is brought in contact with highly heated iron surfaces, an unpleasant odor is given to it, so that people say it is burnt, and there is a general belief that it is very unhealthy air to breathe.

The employment of steam pipes is regarded as an amelioration of the above difficulty, as their temperature is not so elevated; and hot water is used in preference to steam in order more fully to secure the same end.

In the examination of Mr. Goldsworth Gurney before a committee of the British House of Commons, March 31, 1854, he testified as follows upon this point:

"Question 31. Do you think that the offensive smell may arise in any degree from the use of metal pipes? There is sometimes what is called a 'ferruginous odor' produced from iron pipes, but I believe not much in the present case; burnt air is the great source—the decomposition of small particles of animal matter which always float about in the amosphere. This question has been settled by French philosophers many years ago; it is not from the decomposition of the nitrogen and oxygen, but from the decomposition of those ammoniacal matters which are always found more or less in the atmosphere.

"Question 32. Would you be disposed to recommend any other material than iron for the warming pipes? I should prefer zinc; it is clean, a good conductor, and radiates heat well."

My own opinion is that the rusty surface of the iron imparts most of the offensiveness experienced, and that, therefore, the term "ferruginous odor" is correct, and as it is impossible to employ iron pipes for this purpose without their surfaces soon becoming rusty, the true remedy is to supply a more cleanly metal, as recommended by Mr. Gurney. That gentleman afterward, in rearranging the ventilating apparatus of the houses of Parliament, employed surfaces of sheet zinc heated with hot water. The improvement in cleanliness by exchanging zinc warming surfaces for iron was very great, but an equal improvement over the zinc surfaces can be made by the employment of pure block-tin tubes. This is superior to all the useful metals in its power to resist atmospheric influences. In this respect, indeed, it is fully equal to silver. It is a good conductor of heat; and though its bright surface would prevent its radiating heat well, as claimed by Mr. Gurney for zinc, this is unimportant, as air is not warmed by the heat of radiation, but only by direct contact with bodies warmer than itself.

Recent improvements in the mechanic arts have brought tin-encased lead pipe and solid block-tin pipe largely into use for conveying water in dwellings; its cleanliness and healthfulness strongly recommending it.

I would therefore employ pure block-tin tubes, filled with hot water, for warming the air. This would not only warm the air without imparting any odor whatever to it when the apparatus was new, but would continue to do so for a great many years after zinc had become entirely coated with its oxide, or iron had rusted through and through and been many times renewed.

In Plates I and II of the illustrations there will be observed five congeries of tubes in each of the two great air-ducts in the foundation story. These marked *h* are for warming the air. Each tube is 10 feet long by 1⅛ inches outside diameter; they are secured into brass tube-heads in the same manner as in the surface condenser of a marine engine. They open at each end into steam-tight chambers, or chests. Into the upper of these I would introduce steam from the boilers; and from the lower I

would draw off the water by appropriate pipes, the valves of which would be situated in the engine-room.

It will be understood that with this arrangement the apparatus would be a steam heater, if the extent of the tubular surface was limited to the amount necessary to warm the air by the condensation of the steam only, but that if the surface is enlarged to the amount required to warm the air with hot water, the steam will be condensed in the upper chambers and the upper ends of the tubes, hot water filling the remainder of the tubes and the lower chambers. A valve in the pipe through which the water flows away would control the rapidity with which it was drawn off and consequently its temperature. In ordinarily cold weather this would be hot-water warming apparatus, but upon any extremely cold day it would become a steam-heating apparatus as the attendant opened the regulating valve in the drain pipe.

To decide upon the amount of warming tube-surface necessary, it is first requisite to consider the subject of

MOISTENING THE AIR.

Water pervades the entire human system; considered mechanically, it performs the functions of a lubricant to all its parts. The ligaments and muscles move freely in their places because every fiber of them is coated with water. The skin and hair are soft and pliable for the same reason. In all mechanism the lubricant must be constantly renewed, as the surfaces it lubricates are always wearing away, the particles worn off being absorbed by the lubricant and flowing away with it. In the case of the human body we find the lubricating water, the supply of which is kept up by our daily food and drink, working its way gradually to the surface through the skin and lungs to the air, where it arrives loaded with worn-out particles of our animal nature, and into which it evaporates.

Now the rapidity with which water of a given temperature will evaporate into air in a state of rest is dependent entirely upon how far the condition of the air in regard to moisture is removed from the point of saturation. And in the case of the evaporation from our bodies, if it is too rapid, the skin becomes too dry, and this again induces too rapid a flow of the water within the system toward the surface, making us uncomfortable, and sometimes ill.

Again: the process of evaporation is a cooling one to the surface from which the evaporation takes place. This is explained by the absorption of the latent heat which occurres upon the conversion of a liquid into a vapor. When, therefore, the evaporation is too rapid we are uncomfortably cold, even though the temperature of the air may be sufficiently high.

On the other hand, if the evaporation is too sluggish, the flow of water toward the surface is retarded, and we are made uncomfortable and sometimes ill in another way; also, if the air is of the proper temperature we are uncomfortably warm, the general feeling being described by the term "muggy."

It is highly important, therefore, that the condition of the air as to moisture should be maintained, in any system of ventilation, at that which is the most comfortable and healthful; indeed, that which is the most comfortable is the most healthful.

Most writers upon the subject of the ventilation of large assemblages say that it is impossible to adjust the condition of the air so that all will be comfortable. That persons whose blood has become thinned by age or illness, or who are naturally thin and cool-blooded, require a higher temperature than those who are young, strong, and full-blooded. Also, that in an assemblage where, as in this case, the same person sometimes sits during the entire session of the day without moving or speaking, and at others exerts himself strenuously in a vigorous speech, he is either too cold or too warm, accordingly as he sits still or exerts himself.

My observations and studies upon this subject, however, lead me to the conclusion that if the degrees of heat and moisture are both properly tempered, *i. e.*, each brought to the average of the most comfortable for all, there will be no complaint. The aged and feeble may feel cooler than the young and strong, but they will be comfortably, not uncomfortably cool. Also, when a member sits quietly in his seat all day he will be cooler than when he exercises, but then it will be a comfortable coolness; and when he has greatly exerted himself in an extended speech, in which his deep interest may have led him to become excited, although he will feel warm, it will not be an uncomfortable warmth. Indeed, the question is not whether persons feel warm or cool, but whether they are comfortably or uncomfortably so.

As a general rule, the only point which receives proper attention in the ventilation of large assemblages is that of the temperature. The air is almost always too moist or too dry—generally the latter in cool weather, even if pure—so that the degree of comfort experienced by each is dependent upon his strength and health. It does not hurt a young, strong, healthy person so much to draw the water out of him too rapidly or too sluggishly as it does an old, feeble, or sick person. But the health and strength of the most vigorous man is gradually undermined by any extended persistence in living

in air which has either a great excess or deficiency of moisture, and one of the great difficulties about it is, that in nine cases out of ten he does not know why his health has failed.

I would, therefore, provide for controlling the amount of moisture in the air so that the exact degree of it desired should be maintained with the same precision as the temperature.

The eminent Professor Henry, of the Smithsonian Institution, in a report on the warming and ventilating the Capitol, dated May 4, 1866, remarks upon this point:

"It is evident that the great object of warming and ventilating an apartment in the winter season is to supply it with pure air of the same degree of temperature and the same amount of moisture as that of an open space in a pleasant time in summer. To fully attain this object is a very difficult matter, but that system of warming and ventilation is certainly the best which approximates the nearest to this desirable condition. The heating of the air and preserving it at the desired temperature is the simplest part of the problem; to remove the impure air and to supply its place with fresh air without giving rise to unpleasant currents and unequal temperature is more difficult; to supply the proper quantity of moisture and to prevent its condensation is attended with still greater difficulty, particularly when apartments containing a large number of persons are to be thoroughly ventilated. This part of the general problem is, in my opinion, an essential element of proper ventilation, although it has hitherto received comparatively but little attention in this country.

"The idea is entertained by some that because the heating of a large volume of air to the required temperature of the room does not abstract the aqueous vapor which it contains, that hence evaporation from a surface of water is not required to render such air salubrious. It should, however, be recollected that when the external air is, say, at the temperature of zero, all of its aqueous vapor has been condensed, with the exception of an almost imperceptible quantity, and when this desiccated air is afterward heated to a temperature of 70°, its *capacity*, so to speak, for vapor, is so much increased that moisture exhales into it with great energy from all bodies from which it can be evaporated. A rapid current of ventilation of air in this condition constitutes an artificial sirocco. * * * It is true that the supply of the necessary amount of moisture will increase the cost of heating and ventilation, but this is a consideration which cannot, in most cases, be allowed to weigh against health and comfort."

From the report of Dr. Wetherill on the warming and ventilation of the Capitol, to which reference has already been made, I extract the following remarks:

"For an atmosphere which shall be salubrious to the inmates of an apartment, the hygrometric condition of the air is as important as its freedom from poisonous or deleterious gases.

* * * * * * *

"The evaporation of water from the body is intimately connected with health. The sudoriparous glands, which are constantly secreting their liquid, have a length of tubing which has been estimated at twenty-eight miles. The secretion takes place so gradually that the water ordinarily evaporates, as insensible perspiration, as soon as it reaches the exterior surface of the skin.

"During severe exercise, exposure to great heat, in some diseases, or when the evaporation is hindered by an impermeable covering, the secretion collects upon the exterior of the body in drops of sensible perspiration.

"The total average loss by the lungs and skin in twenty-four hours is almost 3½ pounds of water, of which somewhat more than two-thirds, say 2½ pounds, are furnished by the skin. Of these 2½ pounds only one-sixth is furnished by the vital process of secretion by the sweat glands; for the greater part of the moisture transudes through the skin by simple evaporation. The cutaneous and urinary excretions are, as is well known, vicarious. The evaporation from the skin regulates the animal heat, the body being in analogous condition to those porous earthen jars in which the inhabitants of tropical climates cool water by the evaporation of that portion which exudes to the surface of the vessel.

"The estimated loss of heat to the body by evaporation, per minute, is sufficient to raise half a pint of water from the freezing to the boiling temperature.

"For health, the body must evaporate a quantity of water within certain limits. The amount evaporated is influenced by the hygrometric condition of the air, and by the state of the body itself. The evaporation is increased by muscular action and by a dry atmosphere; it is diminished by repose and by a moist air.

"If the functions of the skin are interrupted, certain diseases are manifested. Among these are affections of the throat, catarrh—passing into acute bronchitis—pulmonary consumption, pericarditis, inflammation of the stomach and bowels, dyspepsia, rheumatism, gout, and fevers.

* * * * * * *

"The rapidity of the evaporation of the body depends *principally* upon the low rela-

tive humidity of the air at a high temperature, and upon the maintenance of this condition in the neighborhood of the body by the action of currents of air. Thus, with too great dryness of the air, particularly at an elevated temperature, and especially if it pass rapidly over the body, there will be a greater degree of evaporation than is consistent with health. On the other hand, in an atmosphere saturated with moisture, the evaporation from the body would be reduced to a minimum, and would be practically nothing in such air having the same temperature as the body. Although we may bear with impunity these extremes for a short period, a persistence in such conditions would be fraught with danger.

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"It is certain that the hydration of the air will involve, in the winter, a considerable expenditure of fuel for a powerful ventilation; but the hydration is as necessary to health and comfort as the warmth."

Dr. Youmans, in his Handbook of Social Science, page 308, says:

"Air changed in temperature by warming, without increased moisture, is apt to produce unpleasant feelings and painful sensations in the chest, which are often attributed to too great heat. In very dry air the insensible perspiration will be increased, &c. The objection lies against *heated* air, no matter how heated. Stoves and air furnaces, with their red-hot surfaces, are undoubtedly worse for the air than hot-water apparatus, which never scorch it; yet the latter may pour into our apartments a withering blast of air at 150°, which may be potent for mischief. The only way that hot air can be made healthful and desirable is by an effectual plan of artificial evaporation."

In the report of Senator Buckalew, to which I have before alluded, he says, page 4:

"It follows that the dry and warmed air for supplying rooms of great magnitude must be passed over an evaporating surface of great extent, in case that mode of hydrating it be adopted. Doubtless warming the water would increase the efficiency of the plan. Dr. Antisell recommends spray, or jets of water, thrown into the air at a right angle to its current, which would, no doubt, be an effective and satisfactory mode of accomplishing the object where the necessary facilities can be established, among which space is indispensable. The objections to the use of steam on an extensive scale for hydration are the production of noise, and, as alleged, of odor, and its imperfect dissolution in the air before entering the chamber. It passes on with the current of air for some time before it becomes dissolved and incorporated with it, and moisture is deposited upon all surfaces with which the volume of air comes in contact. There is no arrangement for introducing steam into the air passing to the halls, but it was provided for the air directed to the committee rooms and passages. The plan was not found to work well, and has not been in practice."

Mr. Lewis W. Leeds, the consulting engineer of ventilation and heating for United States Treasury Department, &c., in a report to the Hon. John Covode, on the ventilation of the House of Representatives, dated January 13, 1868, says upon this point:

"There seems to be an entire unanimity among all parties as to the necessity for additional moisture. This I think of much importance. I however doubt the propriety of allowing the steam to be discharged directly into the fresh-air chambers. There is often an unpleasant smell from escaping steam, and more frequently from the air driven from steam pipes as the steam enters."

The plan I would propose for moistening the air is, to place in the air-ducts in the cellar, just beyond the heating pipes, a system of water pipes, as shown at *m m* in Plates I, II, and V. It will be observed that there are ten pipes, each 20 feet long, lying horizontally, lengthwise of the duct, and distributed throughout its cross-section so as to equally divide it up. In each of these ten pipes there would be a great number of minute holes extending all around the circumference and throughout the length of the pipe. The water driven into these pipes with force would spin out of these holes radially from each pipe, filling the entire duct with a fine shower. The air passing through this shower would be moistened, and a valve in the engine-room, regulating the force with which the water was driven into the pipes, would determine the degree of moisture at which the air should be delivered into the hall.

There are several methods in common use for designating the degree of moisture of the air, viz:

1. The number of grains in weight of water per cubic foot of air.
2. The tension of the vapor in height of a mercurial column.
3. The depth of water there would be on the ground if all the vapor in the air should be suddenly condensed and fall.
4. The "break," or difference between the wet and dry bulb thermometers.
5. The temperature of the "dew-point."
6. The "relative humidity," or per centum which the amount of moisture in the air is of that necessary to saturate it at the same temperature.

The last of these is the most popular method, because it appears to be the general

opinion that this expression should be uniform for all temperatures, to render the air comfortable and healthy to live in. There does not, however, appear to have been any very exact determination of what this should be; but with a temperature of 65°, a strong, healthy person is not uncomfortable when it ranges above 50 and below 80; but in the course of some careful observations of the effect upon delicate persons in feeble health, I have found them commence to complain when it went as low as 60, and again when it went up to 70; the complaint being, however, that it was too cool with the former degree of moisture, and too warm with the latter, although the dry-bulb thermometer continued at 65°. With a temperature of 65° and a relative humidity of 65°, however, I have heard no complaints; and I find that, personally, I can sit quiet or exercise in air of that condition with great comfort, with indoor winter clothing.

With the entire ventilating apparatus arranged as I would propose, these points can be fixed upon, and afterward maintained as may be found desirable by experience; but I will assume the above temperature and degree of moisture as the base of my calculations for the amount of surface required for the warming tubes.

A relative humidity of 65° with a temperature of 65° corresponds with—

$4\frac{1}{2}$ grains of water per cubic foot of air,
A tension of $\frac{4}{10}$ of an inch of mercury,
A depth of $5\frac{1}{2}$ inches of water on the earth,
A break between the wet and dry bulb thermometers of $5\frac{1}{2}$°, and
A dew-point of 52°.

To exhibit the increased capacity of the air for dissolving the vapor of water, as its temperature is elevated, the following table is extracted from one by Guyot, quoted by Dr. Wetherill in his report:

Temperature of air.	Vapor in grains per cubic foot.	Temperature of air.	Vapor in grains per cubic foot.
0°	0.545	55°	4.860
5	0.678	60	5.756
10	0.841	65	6.795
20	1.298	70	7.992
30	1.968	75	9.372
32	2.126	80	10.949
40	2.862	85	12.756
45	3.426	90	14.810
50	4.089	95	17.145

The temperature of the external air in Washington is so seldom below 20°, even in cold winters, that I would limit the surface of the warming tubes to an ability to warm the air entirely with hot water from that degree of coldness, and for colder weather would allow it to become a steam-heating instead of a water-heating apparatus, as already explained.

The lowest degree of humidity of the external air reported by Dr. Wetherill, as found in his experiments, was 1.11 grains per cubic foot. I will assume one grain for the base of calculation. There will then have to be added $3\frac{1}{2}$ grains per cubic foot to give it a relative humidity of 65 when at a temperature of 65°, and as there are 7,000 troy grains in one pound avoirdupois, 80,000 cubic feet of air will require—

$$\frac{80000 \times 3\frac{1}{2}}{7000} = 40 \text{ pounds of water per minute.}$$

The temperature of the water would probably be about 40°. This would have to be warmed up to a temperature of 65°, and be supplied in addition with the latent heat necessary to form it into vapor at that temperature.

To ascertain how much the air must be superheated for this purpose—

Let s = specific heat of air as compared with water = 0.2669
v = volume of air in cubic feet..... = 80,000
w = weight of air in pounds per cubic feet.... = 0.075
t = temperature from which water is raised.... = 40°
t' = temperature to which water is raised..... = 65°
l = latent heat of steam at that temperature.. = 1070°
W = weight of water to be absorbed in pounds. = 40
x = number of degrees the air must be heated above 65°, in order that it may be at that temperature after it has dissolved the moisture.

Then,

$$\frac{W\ (l + t' - t)}{s\ v\ w} = x = 27°.$$

The temperature to which the air must be raised under the above conditions of the weather before it is moistened would, therefore, be—

$$65° + 27° = 92°.$$

Now, to determine the extent of surface required for the warming tubes—

Let P = temperature of water in tubes.. = 192°
T = temperature of air after heating = 92°
t = temperature of external air.... = 20°
C = volume of air in cubic feet..... = 80,000
S = surface of tubes in square feet.

Then,

$$.0045\ C\ \frac{(P-t)\quad (T-t)}{P-T} = S;\ \text{and}\ S = 44{,}582\ \text{square feet.}$$

Each tube, being 10 feet long by 1⅛ inches diameter, would have a surface of 2.9 square feet. There would, therefore, be required 15,373 tubes. I have divided them into eight several congeries for convenience of construction, with 1,922 tubes in each.

In some seasons of the year there will be days when the external air will be all right as to the temperature, but will be deficient in moisture. In such event both the heating and moistening apparatus would have to be employed, as we have seen in the foregoing that the operation of moistening the air is a cooling one. When, however, the heat is a little in excess and the moisture correspondingly deficient, the moistening apparatus would serve both as a cooler and hydrator, and it is only when the weather happens to be in that exact state that the very prevalent idea that the air may be cooled by jets of water is applicable. When the air is too moist as well as too warm, such jets would add greatly to the discomfort experienced. When the relative humidity is in excess in the external air and the temperature too low, merely heating the air may correct both difficulties. I would arrange indicators in the engine-room, such that the engineer would be able to see, at all times, the exact condition of the air in the hall as to temperature and moisture; and then I would so arrange the controlling valves of the entire apparatus that as he looked at the indications he could add or remove moisture, elevate or depress the temperature at will and at once.

When a person enters a building on a cold day in winter, especially if he has been riding, he will invariably repair to a fire to warm himself, if there is one. The most grateful fire one can enjoy, under such circumstances, is one that presents a clear, cheerful blaze. Good dry hickory wood in an open fireplace, having burned long enough to be in a glowing state of combustion throughout, is, I believe, every one's *beau ideal* of a pleasant fire. Such fires might be supplied to the cloak-rooms, but the objection to them would be the constant attention they would require to keep them always in full blaze. Anything less than that would be unsatisfactory, as, if a member came in nearly frozen he would get warm by the general warmth of the hall before a fresh fire could be brought to the necessary heat-giving condition.

The gas fireplaces which have been introduced into the residences of some of the wealthier citizens of New York, within the past two years, fulfill all the requirements of the case in the most complete and elegant manner. When not required, the gas can be turned down to an ignition blaze, and the moment any one or more persons wish to enjoy an especial warmth, they have only to turn on the gas, when there instantly occurs the most efficient and cheerful fire it is possible to imagine.

I would place two of these in each of the four cloak-rooms.

III. COOLING AND DRYING THE AIR IN HOT WEATHER.

To reduce the temperature and moisture of the air of ventilation in the hot weather in summer is a much more expensive operation than warming and moistening it in cold weather. But, in the warm climate of Washington, the midsummer session is always dreaded by members of Congress. During the hot season of last July, the House adjourned on two different occasions at an exceptionally early hour, because it was beyond the limits of physical endurance for the reporters to continue their labors longer in the fervid heat. Members were compelled to frequently leave their places and seek temporary relief in some breezy window. Some members, indeed, refrained entirely from appearing in their seats on those hot days. Of course the oppression was much increased by the impurity of the air, owing to the faulty ventilation; but there can be no doubt that the comfort and health of the members can be greatly improved by cooling the air when it is so excessively hot, though it be pure and plentiful; and that those composing so important a body as the House of Representatives should not be made uncomfortable and ill to an extent which every one recognizes as seriously interfering with the business they meet to perform, will, I think, be evident to all; even though the expense of reducing the temperature be greater than it has heretofore been customary to incur for any ventilating process.

Some attempts have already been made in this direction, but, like all the features of

the present system, the means employed were entirely inadequate to accomplish the end proposed. Thus, 2 tons of ice were melted in the air-duct leading to the hall during each day of about 5 hours, say 800 pounds per hour. The quantity of air passing through the duct, with the blowing-engine running at its usual speed of 42 revolutions per minute, as carefully measured by myself, was 24,300 cubic feet.

The temperature of the ice was, say ..... 25°
That of the water of condensation was, say ..... 60°
The latent heat of ice is ..... 140°

To determine how much the air would be cooled by melting the ice—

Let t = temperature of the ice ..... = 25°
t' = temperature of the water of condensation ..... = 60°
l = latent heat of ice ..... = 140°
s = specific heat of air ..... = 0.2669
w = weight of air per cubic foot ..... = 0.075
v = volume of air in cubic feet ..... = 24,300
W = weight of ice melted per minute ..... = $13\frac{1}{3}$
x = number of degrees the air would be cooled by the melting of the ice.

Then,

$$\frac{W\,(l+t'-t)}{s\,w\,v} = x = 4\tfrac{3}{4}°$$

As, however, the air thrown in by the present blower is mixed up with that which flows into the hall through the open doors, the temperature of the hall is only reduced about one degree by the melting ice.

The greatest absolute amount of moisture Dr. Wetherill found in the air at the Capitol, in his experiments, was 8.93 grains per cubic foot; and this was during the prevalence of a rain-storm.

The temperature seldom rises above 95°, but it reaches that point often enough to establish the propriety of assuming that as the maximum.

If now we suppose the temperature to be 95°, and the moisture in the air at 9 grains per cubic foot, and we wish to reduce the temperature to 75°, and not permit the relative humidity to rise above 65, we must abstract three grains of water from each cubic foot, or—

$$\frac{80{,}000 \times 3}{7{,}000} = 34.3 \text{ pounds from the whole quantity per minute.}$$

At the moment of the condensation of this water from a vapor into a liquid, its latent heat is given out into the air; so that removing the vapor is a warming process, as has already been shown that the addition of it is a cooling one.

The additional extent which the air must be cooled to compensate for this latent heat of the vapor is expressed by the formula—

$$x = \frac{W\ l}{s\ v\ w}$$

Where W = the weight of water in pounds ..... = 34.3
l = latent heat of the vapor ..... = 1091°
s = specific heat of air ..... = 0.2669
v = volume of air in cubic feet ..... = 80,000
w = weight of air per cubic foot ..... = 0.075
x = the number of degrees the air will be warmed by the condensation of the vapor.

With the above values,

$$x = 24°$$

The entire cooling effect must, therefore, be equivalent to 44°.

This would require 24,000 pounds of ice to be melted per hour, or, say, 60 tons per daily session of five hours.

Coal is cheaper than ice per ton, is more conveniently stored and handled, and *one-sixth* of the above quantity burned in the furnace of a steam-boiler will produce, through the medium of appropriate mechanism, an equal cooling effect upon the air. I would, therefore, discard the use of ice and employ steam-power instead.

Machines are operated by the steam-engine for the manufacture of ice, which produce cold by pumping off the vapor of sulphuric ether, or of the bisulphide of carbon; these liquids vaporizing rapidly at low temperatures if the pressure of the superincumbent atmosphere be removed, but the employment of such substances would be inadmissible in cooling the air for ventilation, as a slight leak in even one of the many tubes it is necessary to employ in such mechanism would impair the purity of the air to a decidedly sensible and objectionable extent.

I would, therefore, employ the steam-power to drive air-pumps to compress a portion of the air, making it hot, and while it was under this pressure cool it down to the ordinary temperature by passing it through tubes surrounded by flowing water; employing an apparatus for this purpose precisely like the surface-condenser of a steam-engine. This compressed air would then be conveyed to the duct through which the blowers were driving that which did not pass through the pumps, where it would be permitted to expand again to the ordinary atmospheric pressure. This expansion would be a cooling process exactly corresponding in extent to the heating one the air underwent when it was compressed; and by mixing this excessively cold air with the warm air from the blowers, the whole would be brought to the desired temperature.

It is mechanically convenient, in a machine of this kind, to compress two volumes of air into one in the pumps. To learn how much such an amount of compression would elevate the temperature, a formula is given by Peclét in his *Traité de La Chaleur, tome III, p.* 10, as follows:

Let θ = temperature before compression, (centigrade.)
d = density before compression.
θ' = temperature after compression.
d' = density after compression.

Then,

$$\theta' = (274 + \theta)\left(\frac{d'}{d}\right)^{0.42} - 274$$

In this case,

$\theta = 35°$ (= 95 Fahr.)
$d = 1$
$d' = 2$

and consequently,

$\theta' = 139.44°$ cent., or 283° Fahr.

and the elevation of the temperature would be 188° Fahr.

When air is heated in a confined space its pressure is increased $\frac{1}{480}$ part with each additional degree. The pressure of the atmosphere being 14.7 pounds per square inch, the pressure upon the pump pistons during the last half of the stroke would be,

$$14.7 + \left(\frac{188}{48} \times 14.7\right) = 20.46 \text{ pounds per square inch.}$$

Let us say that we will maintain a pressure in our condensed-air cooler of 20 pounds per square inch.

To find how cold the air will be after its expansion, we have—

$$\frac{\theta' + 274}{\left(\frac{d'}{d}\right)^{0.42}} - 274$$

The temperature of the Georgetown water during the hottest weather in summer is about 70°. As I would arrange the cooler so that there would be reverse currents of cold water and hot air, the latter would be cooled down to say 75°, which corresponds with 23.89° centigrade.

As the heat was abstracted from the air it would be further condensed $\frac{1}{480}$ part with the departure of each additional degree, the pressure being maintained; hence we would have—

$$\theta' = 23.89$$
$$d = 1$$
$$d' = \frac{14.7 + 20}{14.7} = 2.36$$

Whence,

$\theta = -66.12°$ cent., or —87° Fahr.

This would be a reduction from its original temperature of 182°.

This being slightly more than four times the amount of cooling force, it is necessary to apply to the whole quantity of air furnished one-fourth of that amount, or 20,000 cubic feet will require to be passed through the pumps.

Allowing 10 per centum for loss, the dimensions of the air-pumps will require to be as follows:

Number of pumps	2
Diameter of pistons	65 inches.
Stroke of pistons	6 feet.
Double strokes per minute	40

As the mean resisting pressure will be 12.4 pounds per square inch, the net power required to work them will be 1,200 horses. Allowing 10 per cent. for friction of engine and pumps, and we have 1,320 horses as the gross effective power of the engines. I would attach the steam and pump pistons to the same rods; with this arrangement, the steam-cylinders would have to be 45 inches diameter. I would employ a steam pressure of 40 pounds per square inch, and cut off at one-fourth from the commencement. A surface condenser would be attached, and the mean gross effective steam pressure would be 29 pounds per square inch. This cooling engine is shown in Plates I, II, and III of the illustrations.

If the cold air was simply conveyed to the air-duct and mixed with the warm air from the blowers, it would be cooled down below the desired temperature, and a portion of the moisture it is desirable to abstract would be condensed in the form of a fog and carried along with the air into the hall, which would thus be filled with a cold, damp air, highly objectionable. It is necessary, therefore, to have the cold air introduced in a peculiar manner, such that not only may the moisture be abstracted, but that the exact amount removed may be subject of convenient and easy regulation by the engineer in the engine-room. The character of this regulation must necessarily be that the power exerted by the engine shall determine the extent of the cooling force, and that the amount of this which shall be devoted to reducing the temperature of the air, and that which is devoted to abstracting the moisture, shall be subject to a regulating lever, or hand-wheel; so that if the engineer moves this in one direction the air will be made cooler and more moist, and if in the other it is made warmer and drier, the cooling engine continuing to run at the same rate.

To accomplish this, I would erect in each of the two cooling and drying chambers of the air-ducts a congeries of tubes somewhat similar to those employed for warming the air in cold weather, (marked *d* in the illustrations;) only I would have an additional chamber, or chest, at mid-height, so that there would be, in fact, two systems of tubes, one above the other; in other words, it would be two stories high. Now, in the two upper chambers I would have openings in the bottom in all the spaces between the rows of tubes; these openings controlled by valves, and the valves appropriately connected with hand-levers or wheels in the engine-room; there being one for a system of valves which would control the openings in every third space between the rows, and one for those in the remaining spaces. The aggregate area of the openings in the lesser system should equal the area of the pipe which brings the compressed air from the cooling engine; those in the other spaces, being of the same dimensions, would have in the aggregate twice this area. Then the compressed air should be conveyed by a pipe from the cooling engine to the lowest chamber; thence it would flow upward through the tubes into the upper chambers, then downward through the openings into the spaces between the tubes. The operation of this arrangement would be as follows:

Let us imagine a condition of the external air such as has been assumed for a maximum performance of the cooling engine. In this case let the openings in two-thirds of the spaces betweeen the tubes be closed, and those in the remaining spaces be wide open; the area of the whole being such that it would require a pressure of 20 pounds per square inch to drive all the air supplied by the pumps through them. It will be perceived that the pressure throughout, from the pumps to the exit, will be 20 pounds per square inch, and that, therefore, the temperature will be maintained at 75° while the air passes through the tubes. As the compressed air pours down between the two rows of tubes and expands to the ordinary atmospheric pressure, its temperature will fall so suddenly that the moisture within it will be condensed and part of it frozen into minute hail. The main portion of the air from the blowers will pass through the remaining spaces between the tubes; and as they are only one-eighth of an inch apart in the rows, they form, in effect, walls of separation between the warm and the cold air. A sufficient quantity of the air from the blowers will, however, pass into the cooled spaces to carry forward the hail-storm raging there, and as the hail and condensed moisture are carried along the narrow spaces they will come in contact with the surfaces of the tubes and be deposited upon them. The temperature of these will be too low to vaporize the moisture, but warm enough to melt the hail, and the water will run down them, as it does along the sides of an ice-water pitcher, to the bottom tube-sheet, whence it will pass off in proper drains prepared for it.

If the warm air issued from the drier with the same velocity as the cold, exactly one-third of the whole amount would be excessively cooled, and nearly all its moisture extracted; but the great velocity with which the compressed air will pour into the spaces between the tubes, having only to be changed in its direction by the horizontal current from the blowers, will flow out with considerably greater velocity than the warm air from the remaining spaces; so that something more than one-third of the moisture contained in the whole amount of air will be deposited upon the tubes and carried away. In the case under consideration, exactly one-third is the amount it is desired to extract. The necessary reduction will be made by slightly opening the valves in the remaining spaces; the immediate effect of which will be to cool down all the tubes by causing a partial expansion of the air within them, so that the warm air

will be cooled somewhat by coming in contact with the tubes, in addition to having some of the cold air mixed with it. This will lessen the extent to which the temperature will be reduced in the cold spaces, and, consequently, the amount of moisture which will be condensed and extracted.

If all the valves be fully opened, the air would, in this case, be delivered from the drier at a temperature of about 67°, and a relative humidity of 100°; the air would feel very cold and damp, but there would be no mist or fog, as all condensed moisture would be deposited upon the cold tubes, and the exact degree of humidity desired could be obtained by adjusting these valves; opening them would moisten and cool the air; closing them would dry and warm it.

When the cooling engine was not required to run at its full force, the first set of valves would require to be partially closed, when it was necessary to produce a large drying and a small cooling effect.

As the air issues from the drier it will be in vertical strata of cold dry and warm moist air, in the proper proportions, both with regard to temperature and moisture, to give the desired condition when they are mixed, which they will soon become as they pass along the duct.

When, however, the external air is of the right temperature, or not much above it, but is so damp that it must be dried, the resulting temperature of the mixture will be too low; in which event it must be warmed up to the desired point as it passes through the heater.

On the other hand, the external air may be so dry that when it is cooled down to the desired temperature it will still be too dry; when this occurs the moistening apparatus must be put in operation. Indeed, as has already been explained, it will sometimes happen that moistening the air will sufficiently cool it.

To enable the engineer in charge to control the condition of the air he delivered to the hall, I would arrange pipes about three inches in diameter and properly incased with a non-conductor of heat, from the inlet duct, from the tempering ducts just beyond the moisteners, and from the hall; leading them through a convenient place in the engine-room for observation to the suction openings in the blowers, which would cause a rapid flow of air through them, having the exact condition existing at the other ends of the pipes. Into each of these pipes, as they pass through the engine-room, I would insert the wet and dry bulbs of a hygroscope, which should plainly indicate the temperature and degree of moisture in the air passing through the pipes.

The method here recommended for drying the air when it is too moist, or when it is made so by reducing its temperature, is simply the adoption upon a small but sufficient scale of that employed by nature in effecting similar changes of weather.

Dr. Metcalf, in his incomparable work on caloric, vol. i, p. 267, and following, describes and explains the influences exerted by the vapor of water upon the atmosphere, and how it is added and removed. I quote from him as follows:

"As the phenomena of lightning have been universally known to be immediately connected with the production of rain, it becomes necessary to ascertain with certainty the cause of evaporation and condensation before attempting to solve the problem of atmospheric electricity.

"That caloric is the true and only cause of evaporation, or the formation of steam, is one of those self-evident propositions which would seem to require no proof. But to remove all doubts upon the subject the fact has been experimentally demonstrated by Dr. Dalton, to whom the science of chemistry and meteorology is so largely indebted.

"He put a little water in a dry glass flask with a thermometer in it, when he found that a small quantity of vapor was formed at 32° Fahrenheit. At 40° the amount was increased; at 50° it contained still more vapor; while at 60° the quantity was yet further augmented. He also found that when the temperature of the flask was suddenly reduced from 60° to 40° a portion of the vapor was converted into water, and that the quantity retaining the elastic form was precisely the same as when the temperature was originally at 40°.

"The above is a simple and beautiful representation of what is perpetually going on throughout the atmosphere and in the steam-engine.

"By another series of admirable experiments he ascertained that the quantity of water evaporated in a given time was exactly in proportion to the elastic force of vapor at the same temperature, whether formed in *vacuo* or under the pressure of the atmosphere, with this difference, that in the latter case the process goes on much more slowly because the atmosphere presents a mechanical impediment to its diffusion somewhat analogous to the obstruction of water by porous sand. From which he inferred that vapor is not chemically united with the air, as has been formerly supposed, but mechanically diffused through it, forming a distinct atmosphere of its own, the elastic force of which is always in proportion to temperature.

"At 0° he found the elastic force of vapor equal to the pressure .064 inch of mercury, that is, about one-fifteenth of an inch; at 32° it amounted to one-fifth of an inch; at 47° about one-third of an inch, or .339; at 59° .507, or one-half an inch; at 80° one inch; and at 90° 1.360. He also ascertained that the elastic force of vapor at 212° is equal

to the pressure of the whole atmosphere, or 30 inches of mercury. (Manchester Memoirs, vol. 5.)

"From the above experiments it follows that if the temperature of the earth were 80° from the equator to the poles, the quantity of vapor would be everywhere the same, and equal to about one-thirtieth of the average weight of the whole atmosphere; but that if its temperature were reduced from 80° to 59°, one-half of the vapor would be precipitated in the form of rain; if to 32°, four-fifths of it would be converted into snow; and if reduced to 0°, 14 out of 15 parts of the whole would descend to the earth in the form of ice, in obedience to that universal law of nature by which bodies cohere and tend toward a common center.

* * * * * *

"If at the temperature of 80° the atmosphere contains an amount of vapor equal to the pressure of only half an inch of mercury, while it is capable of sustaining twice that quantity, it will require a reduction of temperature below 59° to cause precipitation. Hence it is that the atmosphere often undergoes great reductions of temperature without producing rain. But when the air is full of vapor the process of evaporation is arrested; which explains why a cold, dry air is more favorable to evaporation than warm air that is already saturated, especially if the former be in a state of rapid motion.

"Dr. Dalton found that when boiling water was exposed to a current of air that carried off its vapor as fast as formed, vaporization went on a third faster than in a room where the air was still. Hence it is that the northeast and east winds, which in the west of Europe are generally dry, and far below the point of saturation, seldom condense the vapor of France and England; but, on the contrary, often re-dissolve the clouds already formed, producing clear weather. During summer, when the atmosphere has been for some time comparatively still, it is soon saturated with vapor, which is indicated by heavy dews and the formation of clouds termed *cumuli*, in which case the weather becomes hot and sultry, because the caloric which is usually carried off by evaporation and winds accumulates on the surface of the earth and heats the superincumbent air. Such a state of things generally forebodes an approaching thunder-storm.

"That the condensation of atmospheric vapor is owing to the abstraction of its caloric by colder currents of air is evident from the fact that in the tropical ocean, far from land, where the trade-wind blows steadily in one direction, and where the temperature seldom varies more than two or three degrees, there is less rain than in the vicinity of continents and large islands where currents of air of different temperatures frequently meet.

"In the great desert of Sahara there is scarcely any rain, because the wind blowing over it is generally in the same direction, while the vapor transported by it from the ocean is still further rarefied by the intense heat reflected from the scorching sands, where there are no mountains to arrest its progress. There are also long droughts in Egypt, Palestine, New Holland, and many other parts of the world, where the winds blow long in one direction without encountering colder currents. During summer in the United States the atmosphere is often so much heated that the vapor brought from the ocean by southern winds is not condensed for several weeks, and sometimes two months, but is further expanded, until it becomes saturated, or meets with a current from the northern points of the compass, when thunder-gusts follow.

"When I come to treat of winds it will be shown that the most extensive falls of rain in the middle latitudes are produced by the meeting of immense masses of air from opposite quarters of different temperatures, as during the equinoctial floods and storms. When both contain as much vapor as they can support at their respective temperatures, the amount of precipitation is of course the greatest.

* * * * * *

"There is nothing more admirable in the great drama of nature than the process of evaporation and condensation, by which all the waters of lakes, rivers, and fountains are elevated from the ocean, transported over continents and islands, precipitated by polar currents, and distributed in the form of great natural shower-baths over the dry land.

* * * * * *

"By a careful analysis of the phenomena, it becomes self-evident that, *if caloric be the true and only cause of evaporation, condensation and precipitation can be effected only by the evolution of the same agent.* During winter the quantity and elastic force of vapor in the atmosphere are comparatively low in the middle latitudes, where it is condensed gradually on meeting with colder air. During spring evaporation augments with increase of temperature, when masses of warm and cold air often meet, causing frequent showers of rain and sometimes of hail, still without much thunder and lightning. But during summer, when the temperature becomes tropical and the atmosphere saturated with highly elastic vapor, we have tremendous explosions of thunder and lightning, with rapid precipitations of rain and hail.

* * * * * *

"If it can be shown that transparent elastic vapor is the vehicle of atmospheric electricity, and that it is rapidly condensed during discharges of lightning, it will neces-

sarily follow that the caloric of such vapor is given out in the concentrated form of electricity during a thunder-storm.

* * * * * * *

"The fabled Proteus of old is but a feeble representation of the rapid changes through which caloric passes—now silently bearing the waters of the ocean aloft in the atmosphere in a state of transparent ethereal vapor; now darting vivid corruscations from its aerial palaces on high; leaping upon the mountains and cleaving the rocks asunder; resounding through the heavens with its great music, and sprinkling the earth with genial showers of fruitful rain. Though constantly changing, it is never destroyed, but is always the same powerful agent by which Infinite Wisdom directs and governs the universe. Who can refrain from sentiments of profound admiration of its God-like energy, and the wonderful manner in which it produces an endless succession of the most diversified effects?

"There is not a more striking evidence of beneficent design in the whole mechanism of creation than the rapid evolution of heat, from atmospheric vapor, in the concentrated form of lightning, during hot and sultry weather. Were it evolved gradually, as during winter, the number of rainy days would be so far increased as greatly to interfere with the operations of agriculture. On the other hand, being given out in the diffused form of sensible heat during the formation of clouds, rain, and snow in the higher latitudes, it moderates the excessive cold, which would otherwise prevail during winter."

It appears conclusive from the foregoing remarks of the learned writer, that the mechanical arrangement I have described, for cooling and drying the air when it is very hot and sultry, is only wanting in magnitude to produce a regular thunder-storm in the air-duct. The electricity will probabably be evolved in precisely the same manner that it is in the heavens when very cold and very warm currents of air are brought suddenly together, but it will be on so comparatively small a scale that the observable phenomena of the thunder-storm will not be apparent.

It is reasonable, however, to expect that the same pleasant effect would be had upon the air that a thunder-storm has, viz: to give it a peculiar freshness, as if it had been washed clean, and as if it possessed renewed vital powers, giving every one elastic spirits and additional life and strength.

Since the discovery of ozone by the late celebrated German chemist, Schoenbein, it is generally supposed that the electric fluid developed during thunder-storms gave that condition in considerable degree to the oxygen of the air, and that its delightful freshness and invigorating character, as experienced after a thunder-storm, were due to this cause, ozone being a condition of oxygen, which causes it to enter into chemical union with other substances with greatly increased avidity. When, therefore, we breathe air, of which the oxygen is in this condition, or which is impregnated with this principle, it unites with an increased readiness with the carbon and hydrogen which pass into it out of the blood, through the membranes of the lungs.

There is also good reason to believe that cooling the air by first compressing it, as I have recommended, will have the effect of developing ozone. Dr. Wetherill states in his report, to which I have several times alluded, page 91, that—

"M. Saint Pierre (Comptes-Rendus, lviii, 420, 1864) discovered a remarkable production of ozone by the action of certain kinds of ventilating apparatus. He found that test-paper, placed in the tuyere of a blast furnace, gave evidence of ozone in a much stronger manner than when in the external air; and to show that the velocity of the current bringing greater quantities of air to the paper was not the cause of the reaction, he placed, at the same time, similar papers upon the governor of a steam-engine in a saw-mill. From these and other experiments, he concludes that the reaction arises from compressing the air."

Whether this desirable condition of the air would be imparted to it by the mechanism described, or not, there can be no doubt but the temperature and moisture of the external air could be modified, by the system I have recommended, from its most unpleasant condition in any season of the year to that which is most delightful, and without imparting to it any impurities or unpleasant odors.

To supply the necessary quantity of steam to the blowing and cooling engines I would remove the present boilers and increase the available space in the boiler-room by removing the groined ceiling and the accompanying ribs from the side walls, and employ iron beams to support the pavement roof, all as shown in plate V of the illustrations. At present two chimneys, situated in the walls of the connecting corridor, are used to carry off the products of combustion from the boiler furnaces. There is a third one, not used at present, of which I would avail myself, and this would give a sufficient chimney area.

The aggregate potential dimensions of the four boilers would be as follows:

	Square feet.
Grate surface	300
Heating surface	13,744
Calorimeter through tubes	73
Calorimeter through chimneys	44

Height of chimneys above grate, 100 feet.

The maximum demand for boiler power will be when the cooling engine is in operation to its full power, requiring at such times a force of 1,320 horse-power. The blowing engines would then be running at their slowest rate, and would not consume more than 50 horse-power, making a total demand upon the boilers of 1,370 horse-power. It will be observed that the boilers would have 10 square feet of heating surface to each horse-power, a usual proportion.

COST.

I have carefully ascertained how much it will cost to carry out the foregoing programme, and although it amounts to a larger sum in the aggregate than I find contemplated in any of the various reports which have been made on this subject, it is very much less than was expended by the British House of Commons upon improving the ventilation of their hall, though it has the addition of the cooling and drying apparatus, the cost of which is a material addition to the expense; and, moreover, draws its air from an unobjectionable locality through a beautiful wire-work dome, which removes the dust, and then through a long underground tunnel; while the air for the House of Commons is drawn through the side windows of the basement story, which on one side overlook the court-yard where the carriages come for the members. The smell, as of an unclean stable, became so offensive that orders had to to be issued that horses should not stand there when waiting. On the other side the windows overlook the Thames, and orders had to be issued in this direction against the passage near the building of barges filled with offal. I do not know the exact amount they have expended, but the following extract from the evidence of the Hon. E. P. Bouverie, M. P., a member of the House committee on ventilation, before a committee of the House of Lords, May 12, 1854, will give an idea of it:

"Question 762. Do you not think that Mr. Gurney's improvement in the ventilation of the house is mainly attributable to the windows being open?

"Answer. I have heard it said that the result of our spending £200,000 in the ventilation of the House of Commons has been to prove that the best way of ventilating the room is by opening the windows. We sit in the house a good many hours after the windows are shut; for instance, we did so last night, and the air, I think, remains very fresh and good."

Here is an expenditure of $1,000,000 in gold, with labor and materials so much cheaper than in this country that it would require $2,000,000 of our present currency to effect the same work here now, and even then they had not arrived at a fully satisfactory condition of their hall, as they made several changes subsequent to the above date.

The whole cost of the Capitol building up to the present time is about $12,000,000, and it is correspondingly grand in its conception and beautiful in its details. The materials are of the highest order ever employed in building, and they are brought together with an exquisite taste and skill, which is probably unsurpassed in any edifice in the world.

The new wings are so arranged that mechanical ventilation is the only proper method, and that was adopted and is now in use. But the mechanism is utterly inadequate in its dimensions and power, is arranged upon erroneous principles, and is faulty in every detail of its design. It propels a feeble current of air up through the floor of the hall near the western end, which current continues directly upward and out through the ceiling without having done much to ventilate anybody. In winter it is heated by rusty iron steam-pipes, without being moistened, and in summer the little ventilation there is may be said to depend upon the open doors.

Such a system in such an edifice is simply disgraceful. How much honor is reflected upon the nation by imposing colonnaded façades of purest marble; by grand corridors with tesselated floors, bronze doors and frescoed walls; by the hall's great dimensions, or its gorgeous gildings and other ornamentations, if the whole is kept filled with a mephitic atmosphere by a defective and deficient ventilating mechanism?

The conception of the ventilation of such an edifice should be as complete and superior in its character as a scientific and mechanical work, as the building itself is as an architectural one.

The mechanism should be indebted for the principles which govern its arrangement and operation to a correct application of known physical laws. It should be scientifically proportioned throughout all its details, that it might correspond with the building and with the work it had to perform. Each part should represent the highest skill in the arts to which it pertains in its design, its materials, and its workmanship and finish.

In making the necessary examination of the building, with the view of preparing this report, I was greatly aided by the courtesy and assistance of the Architect of the Capitol Extension, Mr. Edward Clark, who gave me free access to all the plans and records of his office, and supplied me with much valuable information I would otherwise have been unable to obtain without great additional labor.

I am also indebted to the engineer in charge of the ventilation, Mr. J. Thomas Mil-

ler, and his assistant, Mr. H. F. Hayden, for assistance and information, rendered with the greatest cordiality.

I am, very respectfully, your obedient servant,

ALBAN C. STIMERS.

Hon. STEPHEN TABER,
Chairman Committee on Ventilation, House of Representatives.

Estimate of A. C. Stimers.

OFFICE OF ALBAN C. STIMERS, NAVAL ENGINEER,
No. 45 William Street, New York, December 15, 1868.

SIR: In accordance with the expressed desire of the committee in July last, that I should ascertain the net cost of executing the work of introducing a proper system of ventilation for the House wing of the United States Capitol, and report the same to you at this time, I beg leave very respectfully to submit the following detailed statement as the result of my investigations:

Excavating the inlet tunnel; bricking and cementing ditto; coping ditto with granite, and furnishing with marble curb, 28 feet internal diameter and 4½ feet high at inlet, and paving around the curb; block-tin wire screen dome at inlet, 25 feet diameter at base by 22 feet high, of ¼-inch wire and 1¼-inch mesh, with revolving fountain on top; and water pipe and sewer.	$103,103
Eight patent blowers, each having a capacity of driving 200,000 cubic feet of air per minute, including shafting, hangers, pulleys, &c., erected in place, complete	11,194
Pair of surface-condensing engines of 750 horse-power, with wood-gear fly-wheel; patent variable cut-off and steam-jacketed cylinders for driving blowers; all erected in place, complete	46,102
Removing masonry from the engine-room and tempering air-ducts, and replacing it with iron girders and columns; providing cut granite foundations for engines; opening and properly dividing the vertical air-ducts back of the grand stairways, and building inclosing walls between vertical air-ducts and main chamber over hall ceiling; and putting in stairs from basement to engine-room in cellar	70,994
Removing ceiling and ribs from boiler-room; removing present boilers; laying foundations for new boilers; providing new pavement roof with iron girder beams; enlarging smoke conduit from boilers to chimneys, and opening and topping out additional chimney	40,133
Four boilers and their appurtenances, having, in the aggregate, 300 square feet of grate surface, 13,744 square feet of heating surface, 73 square feet calorimeter through tubes, and capable of generating steam for 1,370 horse-power, and of sustaining a working pressure of 40 pounds per square inch, all set in place complete, and fitted with copper steam-pipes to engines	63,416
Providing an extra ceiling of plate glass and iron of double thickness, extending over the entire hall and the grand stairways, rearranging the gas fixtures over new ceiling, perforating the ceiling for the passage of the air into the hall, and supplying wire screen deflectors to distribute the air equally over all parts of the ceiling	66,335
Wire gauze fitted to backs of seats in galleries for passage of foul air through floor of galleries; perforated plates fitted to inside of front of galleries for passage of foul air; perforated plates fitted to cornice of front of galleries, for passage of foul air, and to prevent the exhalations from persons leaning over it from passing down to members on the floor; and additional registers in the hall floor, so that there shall be at least one at each desk	9,508
Removing bricks enough from between air-ducts beneath the hall floor to convert it essentially into one chamber, cutting an air-duct from beneath the hall floor to the exhausting blowers at the east end of the wing	12,726
Heating apparatus, having 44,582 square feet of block-tin tubular surface, arranged in eight congeries with steam and water pipes and valves complete, erected in place	123,018
Providing eight gas fireplaces, with marble mantels complete, in the cloak-rooms; new registers and fitting up committee and cloak rooms	8,709
Moistening apparatus, made entirely of block-tin pipe and equivalent to 40,000 square feet of fan surface	5,792
Pair of surface-condensing engines of 1,320 horse-power, having cylinders of 45 inches diameter by 6 feet stroke, and connected with these a pair of air-compressing pumps of 65 inches diameter by 6 feet stroke, and a tubular compressed-air cooler, having 9,000 square feet of brass tube surface; all erected in place, complete, for cooling the air in hot weather	94,552

Drying apparatus, having 5,570 square feet of block-tin tubular surface, with regulating valves complete, for removing the moisture from the air when it is too damp, or when it is made so by having cooled it	$30,754
Indicating air-pipes, hygroscopes, hot-well thermometers, steam cylinder indicator, engine-counters, and clock for engine-room	2,317
Total	688,653

I am prepared to enter into contract to execute the foregoing work in full accordance with the letter and spirit of my report to you of this date on the subject of ventilating the House wing, and furnish satisfactory sureties for the above-named sum of $688,653, provided that if, after it is completed and tried, the House shall pass a resolution of satisfaction with my work, I shall receive a further sum of 12½ per cent. of the above amount as a profit, the sum herein named being the net cost to me of doing the work.

I am, very respectfully, your obedient servant,

ALBAN C. STIMERS.

Hon. STEPHEN TABER,
Chairman Committee on Ventilation, House of Representatives.

Reply of Edward Clark, Architect of the Capitol Extension.

ARCHITECT'S OFFICE, U. S. CAPITOL EXTENSION,
Washington, D. C., January 11, 1869.

SIR: I have the honor to acknowledge yours of the 8th instant, transmitting plans, and report of Mr. A. C. Stimers, on the subject of ventilating the hall of Representatives, and requesting my opinion thereon, in regard to whether the execution of these plans would interfere with the structure, &c.

In reply, I have to say that after examining the plans, I do not consider that their execution will affect the stability of the structure as far as the walls and foundation are concerned, but at the same time I do not feel myself competent to give a reliable opinion as to whether the iron rafters are capable of sustaining the increased weight which would be imposed on them.

The report and plans are herewith returned.

I am, very respectfully, your obedient servant,

EDWARD CLARK, *Architect.*

Hon. STEPHEN TABER,
Chairman Committee on Ventilation, U. S. House of Representatives.

Reply of A. C. Stimers.

OFFICE OF ALBAN C. STIMERS, NAVAL ENGINEER,
No. 45 *William Street, New York, January* 15, 1869.

SIR: As the Architect of the Capitol does not pronounce upon the question of whether the rafters over the hall have sufficient surplus strength to carry with safety the additional ceiling I propose to place above the present one to form an air conduit, I present you with the results of my own calculations as follows:

Weight which may be placed with safety upon each rafter		67,500 lbs.
Weight of each rafter	12,000	
Weight of roof over each rafter	8,000	
Weight of ceiling suspended to each rafter	15,000	
Weight of proposed ceiling suspended to each rafter	9,000	
Total weight upon each rafter, including new ceiling		44,000 lbs.
Surplus strength after new ceiling is built		23,500 lbs.

I am, very respectfully,

ALBAN C. STIMERS.

Hon. STEPHEN TABER,
Chairman Committee on Ventilation, House of Representatives.

Reply of Horatio Allen.

NEW YORK, *January* 26, 1869.

SIR: I have received your letter of 20th instant, accompanied by Mr. Stimers's report on ventilation, &c. My opinion is asked, "Whether, if the plans of Mr. Stimers be carried through, the results promised in the report will probably be obtained."

The report is very full and very elaborate, and I regret that the shortness of the time allowed for its consideration, and engagements which require my attention, prevent such an examination as to the results of the cooling instrumentalities as will enable me to express an opinion as to that part of the proposed plans.

Mr. Stimers has presented very fully the various means to be used to effect a complete and thorough ventilation.

The provision for obtaining the air from an unobjectionable source and depriving it of dust; the method of forcing the air into and out of the halls, and securing a proper distribution; the mode and means of warming the air and effecting the proper degree of moisture—all appear to me excellent and well calculated to produce the result desired.

The method proposed for cooling the air by the introduction of compressed air, which expands on entering, has only recently been made use of, and I have not the time to possess myself of the practical information on which to base an opinion.

Yours, respectfully,

HORATIO ALLEN.

Hon. STEPHEN TABER,
Chairman Committee on Ventilation, House of Representatives.

OFFICE OF ALBAN C. STIMERS, NAVAL ENGINEER,
No. 45 *William Street, New York, February* 5, 1869.

SIR: As Mr. Allen does not express an opinion as to whether the mechanism I propose for cooling the air in hot weather will produce the results promised in my report, I beg leave to call your attention to the following extracts from standard professional works, by which you will perceive that Mr. Allen cannot be understood as denying in any manner that a powerful cooling influence will be produced by my engine of 1,320 horse-power, but only that he is not prepared at present to say that I will get, on a large, practical scale, the exact amount promised.

In John Bourne's "Recent Improvements in the Steam-Engine," 1865, pp. 237, 238, there occurs the following:

"ICE-MAKING MACHINES.

"One of the most remarkable applications of the steam-engine is to the manufacture of ice, which is accomplished by forcing the heat out of air by mechanical compression, and then by again allowing the compressed air to expand. Such demand is thus created for the restoration of the heat before forced out as to produce a great reduction in the temperature of surrounding objects. On the occasion of my first visit to India, in 1847, the inconveniences caused by the heat drew my attention to the subject of artificial refrigeration, which I proposed to accomplish by compressing air until its temperature became so high that its surplus heat would be readily extracted by the application of cold water; and then by allowing this air subsequently to expand under such circumstances as to generate power, a very low temperature it was plain would be produced, which might be regulated to suit the requirements of a practical system of refrigeration. Subsequently the same idea was propounded by various other parties; and an ice-making machine has been constructed, in which refrigeration is produced by power aided by the agency of ether. But in Kirk's machine for producing cold the ether is discarded and air alone is used, which air is passed through a regenerator, as in Sterling's air-engine. This machine is now in successful use in Young's Paraffine Works, in Scotland."

[From Mechanics' Magazine, (London,) 1857, vol. 66, page 125.]

"DESCRIPTION OF ENGINE.—ICE FORMED IN CYLINDER BY EXHAUST—DISCUSSION.

"Professor Rankine remarked that the same principle (*i. e.*, compression of air) had been applied by Professor Piazzi Smyth to the cooling of air for ventilation; compressed air was passed through tubes surrounded by water, so as to abstract the heat produced by compression, and, by being allowed to expand again, was cooled.

"Mr. Randolph calculated that the temperature due to compression of air to 30 pounds to the square inch would melt tin.*

* Tin melts at 442° Fahrenheit.

"Professor Rankine stated Dr. Gerrie, of Florida, made the first machine for making ice in this manner. Page 126—Mr. Fothergill saw an ice machine in London about 1843. (For Dr. Gerrie's account see Appleton's Magazine, 1851, page 375.)"

In the inaugural address of Mr. Elliot, president of the North of England Institute of Mining Engineers, (*vide* Van Nostrand's Engineering Magazine for January, 1869, p. 23,) he said:

"With regard to the duration of the coal supply in Great Britain I have no hesitation in expressing my opinion that it depends in a great degree upon the scientific improvements we are able to make in our mode of ventilating the workings. It is probable that the ordinary means of ventilation, whether by furnace or fan, may be aided by a change in the force or agency employed for the purpose of haulage and other underground work. As an instance of my meaning I may mention that the apparatus which I have introduced in South Wales, and which, by means of compressed air used as a motive power instead of steam, draws trams and pumps water with complete success, is found to generate ice in an atmosphere which is naturally hot and oppressive. The mechanical usefulness of these new air-engines seems capable of indefinite extension; while, as their cooling properties form a collateral advantage arising out of their use, it is at least possible that they may prove valuable auxiliaries to the more regular means of ventilation in extending the security and promoting the healthfulness of our mines. The difficulties of ventilation once surmounted, the extent of coal at our disposal is incalculably increased."

An ice-making machine was recently made in the Novelty Iron Works in this city—of which Mr. Allen is president—with which ice was made by cooling compressed air, and then permitting it to expand. The mechanic who had charge of its construction informs me that he had a small stop-cock on the top of the compressed air-chest, opening upward, and that when he opened this the moisture in the escaping air was immediately frozen, and there appeared a fountain of hail of exquisite beauty.

Mr. George H. Reynolds, superintendent of the De Lamater Iron Works of this city, informed me that he recently erected some air pumps for compressing the air used at a Bessemer steel works, and employed rubber valves. He says that with a pressure of 20 pounds per square inch the valves gave no trouble, but that with 25 pounds the heat was so great as to melt them. Now such rubber melts at about 300° Fahrenheit, and according to the formula I have employed, 20 pounds per square inch gives 283° Fahrenheit, when the air before compression is 95°.

This is pretty strong evidence that the formula cannot be much out of the way when applied to large practical operations.

You will observe that Mr. Allen indorses thoroughly every part of my report, which covers all the attempts of those who have preceded me in this branch of engineering, my proposal to cool the air of ventilation by steam-power being entirely new in this country.

As Mr. Smith emphatically indorses every part of the report, including the cooling, I will only remark that I have yet to learn of his having ever indorsed anything which afterward failed to give entire satisfaction.

I could give you many more extracts from various professional works regarding the efficiency of my proposed method of cooling the air, but as they are of a similar character to those given herein, they would not add to the force of this letter.

I am, very respectfully, your obedient servant,

ALBAN C. STIMERS.

Hon. STEPHEN TABER,
Chairman Committee on Ventilation, House of Representatives.

Proposition to warm in cold weather, cool in hot weather, and ventilate at all times, the Capitol extension, by Alban C. Stimers, naval engineer.

45 WILLIAM STREET, NEW YORK,
January 27, 1870.

SIR: Since the date of my report to the select committee of the House of Representatives (H. R. Rep. No. 19, third session Fortieth Congress, December 15, 1868) I have been studying how I could accomplish the perfect ventilation there promised, and reduce the cost.

The suggestion made to me by an honorable member of your committee (Mr. Jenckes) that the machinery employed should not be placed under the building itself, as is now done and as I had then proposed to do, but to erect a special building for it in the western park, and communicate with both wings by air-ducts only, thus ventilating the whole with one apparatus, was in itself a long step in the desired direction of economy, as in placing the machinery under the building I was compelled to introduce the air through an inlet tunnel of 15 feet diameter and 300 feet in length, while by the plan now proposed all air-ducts may be excavated from the surface, which costs much less

than tunneling. This suggestion also saves the great expense of cutting through massive granite walls in the foundations, and preserving their strength by the use of iron columns and beams. In addition to the advantages of this change on the score of economy, it removes the feeling of objection which existed to having powerful steam machinery in operation immediately beneath the building.

In the report to which I have referred it is explained that a velocity of 5 feet per minute would give a heathful ventilation and enable the mechanism employed to control the current; and the dimensions of the heating, cooling, drying, and moistening apparatus were determined upon the basis of supplying that quantity when the weather was extremely cold or hot, but blowers and blowing engines were to be employed of sufficient power to produce a velocity of 50 feet per minute in the hall, at times when no expenditure was required to change the condition of the air. I find, however, that a constant current of pure air past the person, having a velocity of 10 feet per minute, will give, with downward ventilation, all the sensation of freshness which could be desired. I therefore now propose to limit the power of the blowers and blowing engines to the magnitude necessary to furnish that velocity. For the two halls, the various committee and cloak-rooms, and the corridors of the two wings, this will require 280,000 cubic feet, or say ten tons weight of air per minute. To drive this with four blowers, through four separate ducts, into each end of each wing, and distribute it in the manner described, and to withdraw it with four exhaust blowers through four other separate ducts, and then drive it through a long underground duct to the chimney situated entirely without the grounds, each duct having the cross area hereinafter specified, will require engines of 250 horse-power, in lieu of those of 750 horse-power provided for in my proposition to ventilate the House wing only.

In my former proposition I designed cooling engines of sufficient power to reduce the temperature of the halls 20°, when not only the temperature but the humidity should be at its maximum, the power devoted to drying the air being equivalent to a cooling force of 24° more.

During the past summer I made some very careful observations with the view of determining how much the air may be cooled in hot weather in summer and continue to add to the comfort of the person with each degree of depression shown by the thermometer. The results were such that I became well satisfied I had provided a greater power for that purpose than could be advantageously employed.

The temperature of 75° Fahrenheit is a very pleasant one with summer clothing, but to go suddenly from a temperature of 95° to one of 75° gives an unpleasant sensation of cold, the reverse of comfortable or healthful. To reduce, however, from 95° to 85°, from 90° to 82°, from 85° to 80°, from 80° to 76°, &c., adds charmingly to the comfort, without any sensation of chilliness. This can be accomplished in both wings with cooling engines of 1,000 horse-power.

I propose, also, a further reduction of the cost by leaving out the block-tin wire screen at the entrance of the inlet tunnel, which, with the coping and curb around it, cost $15,000 for the House wing only, and would now introduce the air through the top of the ventilating house; and as it will have no chimneys, and its ventilation will be downward into the boiler furnaces, the purity of the air cannot be impaired as it enters.

Having explained the foregoing as changes from my proposition to the Fortieth Congress, I will proceed to explain my views of what will constitute a good ventilation of the two wings, including the legislative halls and their galleries.

The term *ventilation*, when applied to a building of this importance, should signify *the production and maintenance within doors of pure air, properly tempered with heat and moisture, regardless of the existing state of the weather.*

Thus, to maintain the air pure in any inclosed space occupied by persons, it must be constantly renewed; when the weather is cold the air of renewal must be warmed; when it is hot it must be cooled; when it is too dry it must be moistened; and when it is too moist it must be dried. Further: when air is warmed simply its relative humidity is lessened; and when it is cooled this is increased, so that, generally, when air is warmed it must be moistened, and when it is cooled it must be dried. Properly, however, the degree of moisture in the space ventilated should be as carefully observed as that of its temperature, and that which is most pleasant and healthful should be uniformly maintained, regardless of the condition of the outer air, or of the modifications which may have been made in its temperature.

A consideration of the subject is therefore properly divisible into the following heads:

1. The quantity of air necessary, and how it should be introduced.
2. Warming and moistening the air in cold weather.
3. Cooling and drying the air in hot weather.

The subject of regulating the degree of moisture in the air when it is neither warmed nor cooled is naturally involved in the above.

I. THE QUANTITY OF AIR NECESSARY, AND HOW IT SHOULD BE INTRODUCED.

In treating of the quantity of air required for ventilation, writers generally refer to

the number of cubic feet per minute required for each person in the apartment. This method is, however, defective, in that it does not take into consideration the vacant spaces where the air comes and goes without having come in contact with persons, except as they are to be filled with the somewhat vitiated air with which writers generally appear contented to have pervade occupied apartments.

I consider, however, that any system of ventilation is defective which does not furnish a constant supply of perfectly pure air to the nostrils of every person in an apartment, and to secure this there must be a steady current past the person, having a velocity too low to be perceptible to the senses, but sufficient to furnish a fresh supply to each inhalation. *It is the person, and not the apartment, that requires ventilation.*

Every person is at all times surrounded by an envelope of vitiated air, and the thickness of this envelope is dependent upon the direction and velocity of the air past the person. Thus, the average man is 5 feet 8 inches high and 1 foot thick from front to back. If, therefore, the direction of the current of air past the person is vertical, it will require to have $5\frac{2}{3}$ times the velocity that would be necessary if the direction was horizontal, to maintain the same thickness, or rather thinness, of the vitiated envelope.

Dr. Wetherill, in his interesting report on the ventilation of the Capitol extension, page 66, says:

"Hood (Warming and Ventilation, p. 261) estimates the air required for ventilation by the amount needed to take up the moisture from the skin and lungs. The air required for respiration (*i. e.*, oxidation) is very much less than that needed to hold in solution the vapor of the skin and lungs, which evolve 12 grains of water per minute. If the temperature of a room be at 60°, with a dew-point of 45°, a cubic foot of air will absorb $2\frac{1}{4}$ grains of vapor; or, in other words, the perspiration from the body will saturate $5\frac{1}{4}$ cubic feet of air per minute. If, however, we take the dew-point lower, say not to exceed 20° or 24°, then $3\frac{1}{4}$ cubic feet of air per minute will be required to carry off the insensible perspiration, while for the pulmonary supply one-fourth cubic foot will be needed, making a total of 4 cubic feet. In summer, as the dew-point is higher, more air will be needed, viz, 5 cubic feet per minute for summer ventilation."

In a foot-note to the above it is stated that Seguin gives the exhalation of water from the lungs, 7 grains; from the skin, 11 grains; total, 18 grains, per minute.

This is undoubtedly the correct method of ascertaining the number of cubic feet of air vitiated by each person per minute, and, as will appear further on in this report, the dew-point should be maintained uniformly at 52°; we can make the calculation of quantity exact for this case.

A cubic foot of air at a temperature of 65°, with the dew-point at 52°, will absorb $2\frac{1}{2}$ grains of vapor; and if we take the mean of the two authorities above cited regarding the quantity exhaled by each person, we will have 15 grains per minute; and, to absorb this under the above conditions will require 6 cubic feet of air. Add to this the one-fourth cubic foot required for breathing, and we have $6\frac{1}{4}$ cubic feet as the total amount vitiated per minute.

The surface of an average man is about 18 square feet. If, therefore, we imagine such a man walking in the pure open air at the rate of two miles an hour on a perfectly calm day, the air will be flowing past him at the rate of 176 feet per minute; and, as he is one foot deep from front to back, the average thickness of the envelope of vitiated air which surrounds him may be found as follows:

Let a = The quantity of air vitiated per minute in cubic feet..... = $6\frac{1}{4}$
b = The surface of the person in square feet..... = 18
c = The extent of the person in the direction of the current of air in feet = 1
d = The velocity of the current in feet per minute..... = 176
x = The thickness of envelope in inches.

Then,

$$\frac{12ac}{bd} = x$$

and

$x = 0.018$ or $\frac{1}{55}$ of 1 inch.

In supplying air for the ventilation of a hall containing an assemblage of people, however, it is absolutely essential that the direction of the current should be vertical; otherwise that which has been vitiated by one person will be given to another to breathe and perspire into.

If, now, we assume a man standing upright, of the average height of 5 feet 8 inches, and the velocity of the current at 5 feet per minute, we will have for the value of the terms in the above formula—

$a = 6\frac{1}{4}$
$b = 18$
$c = 5\frac{2}{3}$
$d = 5$

Whereupon

$x = 4.16$ inches.

If this envelope of 4 inches thickness of vitiated air be drawn upward, it is clear that the nose and mouth will be always supplied entirely with vitiated air, no matter how pure it may be one foot away; while if it is drawn downward, those organs will always be supplied with perfectly pure air. This consideration alone is quite sufficient to determine us in favor of the downward direction. There are, however, some other advantages in the downward over the upward direction, which it may be well to state.

The temperature of the human body rarely varies 2° either way from 98°, a sudden variation of 5° or 6° being said to be fatal. If, therefore, the air is supplied at a temperature of 65°, it will be 32° cooler than the body; with the downward current, the head will be in this cool air, while the feet will be inclosed in an atmosphere nearly if not quite as warm as the blood within them. And to "*keep the head cool and the feet warm*" is one of the fundamental rules of hygiene as well as of comfort.

Again, with upward ventilation the entire halls are filled with vitiated air, the vitiation having taken place near the point of admission; while with downward ventilation the vitiation takes place near the point of exit, and the whole upper part is full of pure air.

The height from floor to ceiling of the halls is 36 feet; if, therefore, the air is admitted through apertures well distributed in the ceilings, it has 30 feet to move before it comes in contact with the heads of persons on the floors. During this movement all eddying currents, induced by the increased velocity with which it is necessary that it shall pass through the apertures have become quiet, and the whole mass descends with a uniformity impossible to obtain in the vicinity of the persons ventilated with upward ventilation; and *one of the most important considerations to be kept in view in ventilating an apartment is to avoid perceptible draughts.*

Mr. Goldsworth Gurney, in his examination before a committee of the House of Lords of the British Parliament, March 24, 1854, said in reply to the question:

"In those courts which you have ventilated, you have found your system answer?"

"Yes, we have found the down current always more agreeable. The up current is sometimes used, but it is not so pleasing, and not so effectual."

The hall of the Massachusetts house of representatives has recently been provided with new ventilating arrangements, and the downward system has been adopted.

One objection brought against the downward system is that it is against nature to force air downward. Although this opinion is entertained by an extremely large number of otherwise well-informed persons, every engineer of ordinary attainments knows perfectly well that it is as easy to force air in one direction as another. Another objection is, that as the air is warmed at the same time that it is vitiated, that which is thus vitiated and warmed has a tendency to rise, whatever may be the direction of the general mass surrounding it. This is true, but this tendency is so feeble that its opposition to a current of 5 feet per minute would not be perceptible.

It has been shown that with a vertical current of 5 feet per minute, the mean thickness of the envelope of vitiated air surrounding a man of the average size, when standing, is four inches. This is more than two hundred times as thick as when he is walking at the rate of two miles an hour in a perfect calm. As, however, the air is to be brought from such a direction that the mouth and nose are always supplied with air of absolute purity, and the velocity is sufficient to insure the control of its direction by the mechanical means employed, I have assumed it for the *minimum* velocity to be given.

When the weather is fine, or, in other words, when the outer air from which the supply is derived, is in the desired condition as regards temperature and moisture, and no expenditure is required upon its condition, then a *maximum* amount may be given, the *minimum* being employed when its condition as regards temperature and moisture has to be changed to the greatest extent. The only limit to the amount of air it will be advantageous to supply is that fixed by the rule, that the currents past the person must not be sufficiently rapid to become sensible. Some persons are sensible to currents of much lower velocity than is required to render others conscious of them. Most people can feel a current having a velocity of 150 feet per minute; very few can perceive one of 90 feet per minute.

The most delicate person would, therefore, be unconscious of a current of 50 feet per minute, but as 10 feet per minute will give a beautiful fresh ventilation, I propose, for reasons of economy, to limit myself to furnishing that for a maximum velocity. The average thickness of the vitiated envelope will then be two inches, or one hundred times thicker than when walking out doors in a calm. With downward ventilation, however, the nostrils are in the pure air equally as when walking, the vitiated air enveloping the lower part of the person only, leaving us unconscious of its presence.

The Senate chamber is 115 feet 6 inches long by 81 feet wide. The hall of the House is 139 feet 4 inches long by 93 wide. The downward current within them would therefore have a combined transverse area of 22,284 square feet. A velocity of 5 feet per minute would then require a supply of 111,420 cubic feet, and one of 10 feet per minute a volume of 222,840 cubic feet per minute, to supply the legislative halls only. The

committee and clerk's rooms and the corridors need a supply that would carry these numbers to 140,000 and 280,000 respectively.

The provisions for heating, cooling, moistening, and drying the air should, therefore, correspond with the lesser, while those for propelling it into and out of the building should be adequate to control the greater of the above quantities.

The first method adopted by engineers and architects to give movements to air for the ventilation of mines and buildings was to heat an up-flowing column, thus lessening its specific gravity and causing it to rise with corresponding force. That system is still employed in the British houses of Parliament, where in each of its many towers a charcoal fire is kept burning, and thus a force obtained to propel the air through the building.

During the past year screw-propeller fans, driven by steam-engines, have been introduced into several of these towers to insure a proper draught in unfavorable weather.

It has been practically demonstrated, however, that one pound of coal burned in the furnace of a steam boiler, which furnishes steam to drive a fan blower, will generate as much force, and consequently is capable of producing as strong a current of air as 38 pounds expended in heating a column of air to act by its diminished gravity.

English mining engineers commenced about ten years ago to apply fan blowers to the ventilation of mines. The French had previously adopted the same practice. In addition to the economy of this method, the complete control which the attendant is enabled to maintain over the quantity of air supplied at all times is found to be of great advantage.

Since mankind have lived in houses, windows have been placed in the sides, which it has been the habit to open when the weather was favorable for the purpose of ventilating the apartments within. This practice has been so general, that surrounding the legislative halls of Congress with corridors and committee-rooms, as has been done with the new wings of the Capitol, is regarded with great disfavor; and many people are decidedly of the opinion that they never can be satisfactorily ventilated until the halls themselves are brought out to the sides of the building, and have windows opening directly into them. It is regarded as a fault in the architecture that the only practicable ventilation must be such as would supply air to any pent up place.

For any inclosed space, however, where large numbers of people collect and remain during several hours every day, windows in the sides, which communicate directly with the weather, would manifestly be of no avail when kept closed, as they must necessarily be except in good weather; and even then they are not effective unless the wind is blowing. A remarkable proof of this occurred in Calcutta more than a hundred years ago.

On the 19th day of June, 1753, the native Indian forces attacked and captured Calcutta from the English. At night they thrust one hundred and forty-six English prisoners into what was known as the "Black-hole prison." This was a room on a level with the ground, eighteen feet square, with two open windows on one side, barred, of course, to prevent escape, but free to admit air and light.

These prisoners had not been in the place five minutes before they discovered that they were in danger of suffocation, and, indeed, the weakest soon began to become insensible. Those near the windows entreated the guard on the outside to have them put somewhere else, and a message was sent to the commander of the Indian forces to inform him of the state of affairs; but he was asleep, and Eastern etiquette would not permit of his being awakened, and as he slept until morning no relief was afforded during the whole night. Meantime one hundred and twenty-three of the prisoners died for want of fresh air, only twenty-three living to walk out when the door was opened. These were nearly dead, and did not recover their health until after having passed through a severe attack of boils, which broke out all over the entire person. In this case the windows were ineffective as ventilators, simply because the night happened to be calm.

Even when the weather is good, the temperature of the air delightful, and the wind blowing with the most desirable force, an open window in the side of a great hall, filled with an assemblage of people, would furnish air to those farthest from the windows filled with emanations of all the persons it had passed on its way.

To propel the air into the building I would therefore employ four fan blowers, having in the aggregate a capacity of 280,000 cubic feet per minute. These would be situated on the ground floor in the ventilating-house already mentioned, and from each there would be a separate air duct, one leading to the upper part of each wing into the chambers above the ceilings. Those in the south wing would pass up back of the grand stairways, and would each have a cross area of 20 square feet. Those in the north wing would pass up in the southwest and southeast corners, and would each have a cross area of 15 square feet.

Above the ceilings I would provide additional ceilings of plate glass and iron of double thickness, that they might be non-conductors of heat, and above these I would fix the gas burners, adding about fifty per cent. to the present number. These extra ceilings form air ducts of such character that the air may be thoroughly distributed over the

ceilings before passing down into the halls. As the glass in the ceilings would be of the best quality of clear plate it would be no perceptible obstruction to the light, even if the gas-burners were not increased in number; while, as there would be six inches depth of confined air between the two thicknesses, neither the heat of the summer sun nor that of the gas-lights would raise the temperature of the inflowing air; and in winter they would equally protect the warmth which had been previously given to it. Openings through the present ceilings would be provided such that their present ornamental appearance would not be changed, and an equal area of opening would be obtained in each of the many squares into which they are divided.

To insure the continuance of the air thus admitted through the ceilings in a direct vertical line down to the floors and to the galleries, frequent openings throughout their extent, which should communicate with the air-chambers beneath the floors, would be made, especial means being provided to prevent the foul air from the galleries from flowing down upon the members on the floors; and from these sub-chambers I would withdraw the air by means of four fan-blowers, of equal dimensions with those employed to drive it in. These foul-air blowers would also be situated in the ventilating house, and each would have its separate duct leading from each end of each wing.

These air-ducts, four from each wing to the ventilating house, would be made of brick, and arranged in congeries, the top of each congeries being situated six feet beneath the surface of the ground, so as not to interfere with any desired situation of trees.

The foul-air blowers deliver the air they have withdrawn from the building into an underground conduit common to them all, into the center of which will also be delivered the escaping gasses from the steam-boilers upon which the air from the blowers will act in the manner of an ejector, securing at all times an efficient draught through the boilers. This conduit will extend to the base of a chimney situated without the grounds, so that the foul air and smoke will be delivered at a distance from the Capitol and from the supply of pure air. All these blowers would be driven by one pair of engines, through the medium of appropriate gearing, shafts, and belts. In every case of gearing there would be wooden teeth working into cut-metal gear, which, it is well known, may be made to run with perfect silence, and is more durable than metal gearing. By running all the blowers from one pair of engines, a uniform relation of the forces employed in different localities is thoroughly secured under all circumstances. It will thus be perceived that the air would be driven in through the ceilings and drawn out through the floors with equal force, and that if the doors are left open into the corridors, either from the floor or from the galleries, there will be no tendency for the air to flow either into or out of the hall. At present the provision for the egress of the air through the ceilings is so much greater than that for forcing it up through the floors that there is a constant flow into the halls from the corridors through every open door, both on the floors and in the galleries, (*vide* the Hon. John Covode's report on the ventilation of the hall of the House of Representatives, made June 20, 1868, p. 2.)

If the forces employed to drive the air in through the ceilings were greatly in excess of those provided for drawing it out through the floors, and the doors were left open, the direction of the current would be changed from the direct vertical line to oblique ones toward the doors, and while those sitting near the walls might get their share of pure air, those in the center of the floors would not.

Again, if the forces for withdrawing the air were greatly in excess of those for supplying it, the air would flow into the halls from the corridors through the open doors, disturbing the direction and equal distribution of the pure air, and interfering with whatever modification there had been made in its condition as to warmth and moisture.

By the plan proposed, however, complete control is maintained over the direction, distribution, and velocity of the entire mass of air which fills the halls.

Messrs. Shedd and Edson, in their report on ventilation to a committee of the Massachusetts house of representatives, dated January 1, 1865, remark in regard to this as follows:

"As regards the manner of applying the power to effect the change of air, it is sometimes applied to the exhaustion of the foul air and sometimes to the supply of the fresh air. Either way is effectual in a degree, but neither alone accomplishes quite all that is to be desired. Forcing the fresh air in abundantly will drive out the air already in the hall at every outlet, and it is essential for security against the intrusion of cold currents through cracks and doorways. But it will drive out mainly at the easiest outlets, and some of the most important may be neglected because of being out of the easiest way for the air to pass. The only sure way to get the air out just where you want it to go out is to apply an exhausting force at the outlets to guide and assist the expelling force. The filling method is called the plenum method, and the exhausting the vacuum method.

"Much has been said about the superiority for working vigor of air in a plenum or

over-pressure condition. There is no doubt of the fact that under a high atmospheric pressure a man has greater power than under a low pressure. But the amount of superior pressure that can be obtained in a common hall is very slight and can hardly have a perceptible effect. A nearly even balance of the filling and exhausting forces, making the in-door barometer about the same as the out-door, but with the filling force enough in excess to keep out all air seeking to enter without leave, is the most economical and satisfactory condition to obtain."

The power of the blowing engines has been determined in the following manner:

The aggregate transverse area of the pure air ducts is 70 square feet, and the total quantity of air supplied is 280,000 cubic feet per minute.

Let v = velocity of air through ducts in feet per second; then

$$v = \frac{280000}{70 \times 60} = 66\frac{2}{3}$$

To find the velocity per square foot necessary to produce this velocity

Let v = velocity in feet per second ..... $= 66\frac{2}{3}$
w = weight of air per cubic foot ..... $= 0.075$
g = accelerating force of gravity ..... $= 32.$
p = pressure in pounds per square foot—

Then,

$$p = w \frac{v^2}{2g} = 5.2$$

To maintain this pressure at the ends of the long ducts farthest from the blowers, it must be doubled at the blowers, on account of the friction and the obstructions caused by changes of direction, making 10.4 pounds per square foot.

Then 10 per cent. of the power of the engines must be allowed for that necessary to drive the engines, the shafting, and the blowers; leaving 90 per cent. of the power as applicable to the production of the pressure of 10.4 pounds per square foot and velocity of $66\frac{2}{3}$ feet per second.

The power required to drive the pure air into the building would then be as follows:

$$\text{HP} = \frac{70 \times 66\frac{2}{3} \times 60 \times 10.4 \times 100}{33000 \times 90} = 98$$

It requires an equal power to drive the foul air from the ventilating house to the chimney and out of it, and the air thus driven is drawn through long ducts, the friction of which absorbs one half the power. To perform the whole work the above quantity must therefore be increased two and a half times.

The total power required will therefore be as follows:

$$\text{HP} = 98 \times 2.5 = 245,$$

or, in round numbers, 250.

PLACE OF OBTAINING THE AIR.

In the report of Senator Buckalew to the Senate, from the Joint Select Committee on Ventilation, made February 20, 1865, he says:

"The air for ventilating the halls is now taken from the level of the terraces between the wings and the old Capitol building on the western side. To these situations much dust and other impurities are carried by the action of the winds, subjected to the influence of eddies, and taken with the air through the ventilating passages into the halls. And in warm weather, the terraces and adjoining walls becoming heated, affect very considerably the temperature of the air obtained. Reference upon this point of the inquiry is made to the testimony of Dr. Antisell, and Mr. Forney, the engineer in charge of the ventilation of the House of Representatives. It is manifest that the air introduced into the halls should be obtained from places not subject to the accumulation of impurities, or to the undue production of heat."

The architect of the Capitol, Mr. Edward Clark, in a report dated November 1, 1866, states:

"Objections have been made to the fresh-air source. The present inlets are near the angles of the wings and connecting corridors, and are liable at all times to admit dust, and oftentimes do admit other impurities thrown from the windows; besides, the air at this place has an increased temperature in summer, obtained from the heated walls and pavement.

"In order to obtain a purer, and in summer a cooler, supply of air, it is proposed to construct an underground duct, opening in the eastern grounds, which opening could be made an ornamental feature by placing a fountain in its center. The jets and overflow would assist in cooling the air and to rid it of any mechanical impurities with which it might be charged. A separate duct and fountain will be required for each wing."

Mr. Charles F. Anderson, an architect and civil engineer, in a report to the Joint

Select Committee on Ventilation, &c., says that the present plan "receives the exterior air under the ground floor from off the surface of the overheated and dusty terraces, furnishing much of the bad air from beneath, carried to its surface by evaporation and side currents of air from the ground; and this air is also tainted with much of the odors caused by the machinery near which it passes." This gentleman proposed the erection of high towers to serve as openings to the inlet ducts.

It has already been explained that I propose to obtain the air at the top of the ventilating house, which will be situated in the center of the western park, where there will be no influences affecting its perfect purity.

II. WARMING AND MOISTENING THE AIR IN COLD WEATHER.

There are three methods in common use for warming the air of ventilation in buildings: First, by passing it over iron surfaces which are heated directly with fire and the products of combustion; second, by passing it over iron pipes filled with steam; and third, by passing it over iron pipes filled with hot water. The first of these methods is considered as so highly objectionable as to be entirely discarded in first-class buildings. When air is brought in contact with highly heated iron surfaces an unpleasant odor is given to it, so that people say that it is burnt, and there is a general belief that it is a very unhealthy air to breathe.

The employment of steam-pipes is regarded as an amelioration of the above difficulty, as their temperature is not so elevated; and hot water is used in preference to steam in order more fully to secure the same end.

In the examination of Mr. Goldsworth Gurney before a committee of the British House of Commons, March 31, 1854, he testified as follows upon this point:

"Question 31. Do you think that the offensive smell may arise in any degree from the use of metal pipes?—Answer. There is sometimes what is called a 'ferruginous odor' produced from iron pipes, but I believe not much in the present case: burnt air is the great source, the decomposition of small particles of animal matter which always float about in the atmosphere. This question has been settled by French philosophers many years ago; it is not from the decomposition of the nitrogen and oxygen, but from the decomposition of these ammoniacal matters which are always found more or less in the atmosphere.

"Question 32. Would you be disposed to recommend any other material than iron for the warming pipes?—Answer. I should prefer zinc; it is clean, a good conductor, and radiates heat well."

My own opinion is that the rusty surface of the iron imparts most of the offensiveness experienced, and that therefore the term "ferruginous odor" is correct, and as it is impossible to employ iron pipes for this purpose without their surfaces soon becoming rusty, the true remedy is to supply a more cleanly metal, as recommended by Mr. Gurney. That gentleman afterward, in rearranging the ventilating apparatus of the houses of Parliament, employed surfaces of sheet zinc, heated with hot water. The improvement in cleanliness by exchanging zinc warming surfaces for iron was very great, but an equal improvement over the zinc surfaces can be made by the employment of pure block-tin tubes. This is superior to all the useful metals in its power to resist atmospheric influences. In this respect, indeed, it is superior to silver. It is a good conductor of heat, and though its bright surface would prevent its radiating heat well, as claimed by Mr. Gurney for zinc, this is unimportant, as air is not warmed by the heat of radiation, but only by direct contact with bodies warmer than itself.

Recent improvements in the mechanic arts have brought tin-encased lead pipe and solid block-tin pipe largely into use for conveying water in dwellings; its cleanliness and healthfulness strongly recommending it.

I would, therefore, employ pure block-tin tubes, filled with hot water, for warming the air. This would not only warm the air without imparting any odor whatever to it when the apparatus was new, but would continue to do so for a great many years after zinc had become entirely coated with its oxide, or iron had rusted through and through and been many times renewed.

There will be several congeries of tubes in each of the four tempering ducts in the upper story of the ventilating house for warming the air. They will be secured into brass tube beads in the same manner as in the surface condenser of a marine engine. They will stand vertically, and open at each end into steam-tight chambers or chests. Into the upper of these I would introduce steam from the boilers, and from the lower I would draw off the water by appropriate pipes, the valves of which would be situated in the engine-room below.

It will be understood that with this arrangement the apparatus would be a steam-heater, if the extent of the tubular surface was limited to the amount necessary to warm the air by the condensation of steam only; but that if the surface is enlarged to the amount required to warm the air with hot water, the steam will be condensed in the upper chambers and the upper ends of the tubes, hot water filling the remainder of the tubes and the lower chambers. A valve in the pipe through which the water

flows away would control the rapidity with which it was drawn off, and, consequently, its temperature. In ordinarily cold weather this would be a hot-water warming apparatus; but upon any extremely cold day it would become a steam-heating apparatus, as the attendant opened the regulating valve in the drain-pipe.

To decide the amount of warming-tube surface necessary, it is first requisite to consider the subject of

MOISTENING THE AIR.

Water pervades the entire human system; considered mechanically, it performs the functions of a lubricant to all its parts. The ligaments and muscles move freely in their places, because every fiber of them is coated with water. The skin and hair are soft and pliable for the same reason. In all mechanism the lubricant must be constantly renewed, as the surfaces it lubricates are always wearing away, the particles worn off being absorbed by the lubricant and flowing away with it. In the case of the human body we find the lubricating water, the supply of which is kept up by our daily food and drink, working its way gradually to the surface through the skin and lungs to the air, where it arrives loaded with the worn-out particles of our animal nature, and into which it evaporates.

Now the rapidity with which water of a given temperature will evaporate into the air in a state of rest is dependent entirely upon how far the condition of the air in regard to moisture is removed from the point of saturation. And in the case of the evaporation from our bodies, if it is too rapid, the skin becomes too dry, and this again induces too rapid a flow of the water within the system toward the surface, making us uncomfortable, and sometimes ill.

Again: the process of evaporation is a cooling one to the surface from which the evaporation takes place. This is explained by the absorption of the latent heat which occurs upon the conversion of a liquid into a vapor. When, therefore, the evaporation is too rapid we are uncomfortably cold, even though the temperature of the air may be sufficiently high.

On the other hand, if the evaporation is too sluggish, the flow of water toward the surface is retarded, and we are made uncomfortable and sometimes ill in another way; also, if the air is of the proper temperature we are uncomfortably warm, the general feeling being described by the term *sultry*.

It is highly important, therefore, that the condition of the air as to moisture should be maintained, in any system of ventilation, at that which is most comfortable and healthful; indeed, that which is the most comfortable is the most healthful.

Most writers upon the subject of the ventilation of large assemblages say that it is impossible to adjust the condition of the air so that all will be comfortable; that persons whose blood has become thinned by age or illness, or who are naturally thin and cool-blooded, require a higher temperature than those who are young, strong, and full-blooded. Also, that in an assemblage where, as in this case, the same person sometimes sits during the entire session of the day without moving or speaking, and at others exerts himself strenuously in a vigorous speech, he is either too cold or too warm, accordingly as he sits still or exerts himself.

My observations and studies upon this subject, however, lead me to the conclusion that if the degrees of heat and moisture are both properly tempered, *i. e.*, each brought to the average of the most comfortable for all, there will be no complaint. The aged and feeble may feel cooler than the young and strong, but they will be comfortably, not uncomfortably cool. Also, when a member sits quietly in his seat all the day, he will be cooler than when he exercises, but then it will be a comfortable coolness; and when he has greatly exerted himself in an extended speech, in which his deep interest may have led him to become excited, although he will feel warm, it will not be an uncomfortable warmth. *Indeed the question is not whether persons feel warm or cool, but whether they are comfortably or uncomfortably so.*

As a general rule, the only point which receives proper attention in the ventilation of large assemblages is that of the temperature. The air is almost always too moist or too dry, generally the latter in cool weather, even if pure, so that the degree of comfort experienced by each is dependent upon his strength and health. It does not hurt a young, strong, healthy person so much to draw the water out of him too rapidly or too sluggish as it does an old, feeble, or sick person. But the health and strength of the most vigorous man are gradually undermined by any extended persistence in living in air which has either a great excess or deficiency of moisture, and one of the great difficulties about it is, that in nine cases out of ten he does not know why his health has failed.

I would therefore provide for controlling the amount of moisture in the air, so that the exact degree of it desired should be maintained with the same precision as the temperature.

The eminent Professor Henry, of the Smithsonian Institution, in a report on warming and ventilating the Capitol, dated May 4, 1866, remarks upon this point:

"It is evident that the great object of warming and ventilating an apartment in the

winter season is to supply it with pure air of the same degree of temperature and the same amount of moisture as that of an open space in a pleasant time in summer. To fully attain this object is a very difficult matter, but that system of warming and ventilation is certainly the best which approximates the nearest to this desirable condition. The heating of the air and preserving it at the desired temperature is the simplest part of the problem; to remove the impure air and to supply its place with fresh air, without giving rise to unpleasant currents and unequal temperature, is more difficult; to supply the proper quantity of moisture, and to prevent its condensation, is attended with still greater difficulty, particularly when the apartments containing a large number of persons are to be thoroughly ventilated. This part of the general problem is, in my opinion, an essential element of proper ventilation, although it has hitherto received comparatively but little attention in this country.

"The idea is entertained by some, that because the heating of a large volume of air to the required temperature of the room does not abstract the aqueous vapor which it contains, that hence the evaporation from a surface of water is not required to render such air salubrious. It should, however, be recollected, that when the external air is, say, at the temperature of zero, all of its aqueous vapor has been condensed, with the exception of an almost imperceptible quantity, and when this desiccated air is afterward heated to a temperature of seventy degrees, its *capacity*, so to speak, for vapor is so much increased that moisture exhales into it with great energy from all bodies from which it can be evaporated. A rapid current of ventilation of air in this condition constitutes an artificial sorocco. * * * It is true that the supply of the necessary amount of moisture will increase the cost of heating and ventilation, but this is a consideration which cannot in most cases be allowed to weigh against health and comfort."

From the report of Dr. Wetherill, on the warming and ventilation of the Capitol, to which reference has already been made, I extract the following remarks:

"For an atmosphere which shall be salubrious to the inmates of an apartment, the hygrometric condition of the air is as important as its freedom from poisonous or deleterious gases.

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"The evaporation of water from the body is intimately connected with health. The sudoriparous glands, which are constantly secreting their liquid, have a length of tubing which has been estimated at twenty-eight miles. The secretion takes place so gradually that the water ordinarily evaporates as insensible perspiration as soon as it reaches the exterior surface of the skin.

"During severe exercise, exposure to great heat in some diseases, or when the evaporation is hindered by an impermeable covering, the secretion collects upon the exterior of the body in drops of sensible perspiration.

"The total average loss by the lungs and skin in twenty-four hours is almost three and a half pounds of water, of which somewhat more than two-thirds, say two and a half pounds, are furnished by the skin. Of these two and a half pounds only one-sixth is furnished by the vital process of secretion by the sweat glands, for the greater part of the moisture transudes through the skin by simple evaporation. The cutaneous and urinary excretions are, as is well known, vicarious. The evaporation from the skin regulates the animal heat, the body being in an analogous condition to those porous earthen jars in which the inhabitants of tropical climates cool water by the evaporation of that portion which exudes to the surface of the vessel.

"The estimated loss of heat to the body by evaporation per minute is sufficient to raise half a pint of water from the freezing to the boiling temperature.

"For health the body must evaporate a quantity of water within certain limits. The amount evaporated is influenced by the hygrometric condition of the air, and by the state of the body itself. The evaporation is increased by muscular action and by a dry atmosphere; it is diminished by repose and by a moist air.

"If the functions of the skin are interrupted certain diseases are manifested. Among these are affections of the throat, catarrh passing into acute bronchitis, pulmonary consumption, pericarditis, inflammation of the stomach and bowels, dyspepsia, rheumatism, gout, and fevers.

* * * * * * * * *

"The rapidity of evaporation of a body depends principally upon the low relative humidity of the air at a high temperature, and upon the maintenance of this condition in the neighborhood of the body by the action of currents of air. Thus, with too great dryness of the air, particularly at an elevated temperature, and especially if it pass rapidly over the body, there will be a greater degree of evaporation than is consistent with health. On the other hand, in an atmosphere saturated with moisture the evaporation from the body would be reduced to a minimum, and would be practically nothing in such air having the same temperature as the body. Although we may bear with impunity these extremes for a short period, a persistence in such conditions would be fraught with danger.

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"It is certain that the hydration of the air will involve in the winter a considerable expenditure of fuel for a powerful ventilation, but the hydration is as necessary to health and comfort as the warmth."

Dr. Youmans, in his Handbook of Social Science, page 308, says:

"Air changed in temperature by warming without increased moisture, is apt to produce unpleasant feelings and painful sensations in the chest, which are often attributed to too great heat. In very dry air the insensible perspiration will be increased, &c. The objection lies against heated air, no matter how heated. Stoves and air-furnaces, with their red-hot surfaces, are undoubtedly worse for the air than hot-water apparatus, which never scorch it; yet the latter may pour into our apartments a withering blast of air at one hundred and fifty degrees, which may be potent for mischief. The only way that hot air can be made healthful and desirable is by an effectual plan of artificial evaporation."

In the report of Senator Buckalew, to which I have before alluded, he says, (page 4:)

"It follows that the dry and warmed air for supplying rooms of great magnitude must be passed over an evaporating surface of great extent, in case that mode of hydrating it be adopted. Doubtless warming the water would increase the efficiency of the plan. Dr. Antisell recommends spray, or jets of water thrown into the air at a right angle to its current, which would no doubt be an effective and satisfactory mode of accomplishing the object where the necessary facilities can be established, among which space is indispensable. The objections to the use of steam, on an extensive scale, for hydration are the production of noise, and, as alleged, of odor, and its imperfect dissolution in the air before entering the chamber. It passes on with the current of air for some time before it becomes dissolved and incorporated with it, and moisture is deposited upon all surfaces with which the volume of air comes in contact. There is no arrangement for introducing steam into the air passing to the halls; but it was provided for the air directed to the committee-rooms and passages. The plan was not found to work well, and has not been in practice."

Mr. Lewis W. Leeds, the consulting engineer of ventilation and heating for the United States Treasury Department, &c., in a report to the Hon. John Covode, on the ventilation of the House of Representatives, January 13, 1868, says upon this point:

"There seems to be an entire unanimity among all parties as to the necessity for additional moisture. This I think of much importance. I, however, doubt the propriety of allowing the steam to be discharged directly into the fresh-air chambers. There is often an unpleasant smell from escaping steam, and more frequently from the air driven from steam-pipes as the steam enters."

The plan I would propose for moistening the air is, to place in the air-ducts extending downward from the tempering ducts in the upper story of the ventilating house, to the horizontal ducts under ground, a system of water-pipes, also made of pure block-tin, standing vertically, their ends closed, and their circumferences throughout the length of the pipes pierced by a great number of minute holes. The water driven into these pipes with force would spin out of these holes radially from each pipe, filling the entire duct with a fine shower. The air passing through this shower would be moistened, and a valve in the engine-room, regulating the force with which the water was driven into the pipes, would determine the degree of moisture at which the air should be delivered into the building.

There are several methods in common use for designating the degree of moisture of the air, viz:

1. The number of grains, in weight of water, per cubic foot of air.
2. The tension of the vapor in height of a mercurial column.
3. The depth of water there would be on the ground, if all the vapor in the air should be suddenly condensed and fall.
4. The "break" or difference between the wet and dry bulb thermometers.
5. The temperature of the "dew point."
6. The "relative humidity" or per centum which the amount of moisture in the air is of that necessary to saturate it at the same temperature.

The last of these is the most popular method, because it appears to be the general opinion that this expression should be uniform for all temperatures to render the air comfortable and healthful to live in. There does not, however, appear to have been any very exact determination of what this should be, but, with a temperature of 65°, a strong, healthy person is not uncomfortable when it ranges above 50 and below 80; but in the course of some careful observations of the effect upon delicate persons in feeble health I have found them commence to complain when it went as low as 60, and again when it went up to 70; the complaint being, however, that it was too cool with the former degree of moisture and too warm with the latter, although the dry bulb thermometer continued at 65°. With a temperature of 65° and a relative humidity of 65, however, I have heard no complaints; and I find that personally I can sit quiet or exercise in air of that condition with great comfort with indoor winter clothing.

With the entire ventilating apparatus arranged as I would propose, these points can be fixed upon and afterward maintained as may be found desirable by experience;

but I will assume the above temperature and degree of moisture as the base of my calculations for the amount of surface required for warming tubes.

A relative humidity of 65 with a temperature of 65° corresponds with—

4½ grains of water per cubic foot of air;

A tension of $\frac{4}{10}$ of an inch of mercury;

A depth of 5½ inches of water on the earth;

A break between the wet and dry bulb thermometers of 5½°, and

A dew-point of 52°.

To exhibit the increased capacity of the air for dissolving the vapor of water as its temperature is elevated, the following table is extracted from one by Guyot, quoted by Dr. Wetherill in his report:

Temperature of air.	Vapor in grains per cubic foot.	Temperature of air.	Vapor in grains per cubic foot.
Degrees.		*Degrees.*	
0	0.545	55	4.860
5	0.678	60	5.756
10	0.841	65	6.795
20	1.298	70	7.992
30	1.968	75	9.372
32	2.126	80	10.949
40	2.862	85	12.756
45	3.426	90	14.810
50	4.089	95	17.145

The temperature of the external air in Washington is so seldom below 20°, even in cold winters, that I would limit the surface of the warming tubes to an ability to warm the air entirely with hot water from that degree of coldness, and for colder weather would allow it to become a steam-heating instead of a water-heating apparatus, as already explained.

The lowest degree of humidity of the external air reported by Dr. Wetherill, as found in his experiments, was 1.11 grains per cubic foot. I will assume one grain for the base of calculation. There will then have to be added 3½ grains per cubic foot to give it a relative humidity of 65 when at a temperature of 65°, and as there are 7,000 troy grains in one pound avoirdupois, 140,000 cubic feet of air will require—

$$\frac{140{,}000 \times 3\frac{1}{2}}{7{,}000} = 70 \text{ pounds of water per minute.}$$

The temperature of the water would probably be about 40°. This would have to be warmed up to a temperature of 65°, and be supplied in addition with the latent heat necessary to form it into vapor at that temperature.

To ascertain how much the air must be superheated for this purpose—

Let s = specific heat of air as compared with water = 0.2669
v = volume of air in cubic feet ..... = 140,000
w = weight of air in pounds per cubic feet .... = 0.075
t = temperature from which water is raised... = 40°
t' = temperature to which water is raised..... = 65°
l = latent heat of steam at that temperature.. = 1070°
W = weight of water to be absorbed in pounds. = 70°
x = number of degrees the air must be heated above 65°, in order that it may be at that temperature after it has dissolved the moisture.

Then,

$$\frac{W\,(l + t' - t)}{svw} = x = 27°$$

The temperature to which the air must be raised under the above conditions of the weather before it is moistened would, therefore, be—

$$65° + 27° = 92°$$

Now, to determine the extent of surface required for the warming tubes—

Let P = temperature of water in tubes.. = 192°
T = temperature of air after heating = 92°
t = temperature of external air.... = 20°
C = volume of air in cubic feet..... = 140,000
S = surface of tubes in square feet.

Then,

$$.0045\ C\ \frac{(P-t)\ (T-t)}{P-T} = S;\ \text{and}\ S = 78{,}000\ \text{square feet.}$$

In some seasons of the year there will be days when the external air will be all right as to the temperature, but will be deficint in moisture. In such event both the heating and moistening apparatus would have to be employed, as we have seen in the foregoing that the operation of moistening the air is a cooling one. When, however, the heat is a little in excess and the moisture correspondingly deficient, the moistening apparatus would serve both as a cooler and hydrator, and it is only when the weather happens to be in this exact state that the very prevalent idea that the air may be cooled by jets of water is applicable. When the air is too moist as well as too warm such jets would add greatly to the discomfort experienced. When the relative humidity is in excess in the external air and the temperature too low, merely heating the air may correct both difficulties. I would arrange indicators in the engine-room, such that the engineer would be able to see at all times the exact condition of the air in the halls as to temperature and moisture; and then I would so arrange the controlling valves of the entire apparatus that as he looked at the indicators he could add or remove moisture—elevate or depress the temperature at will, and at once.

When a person enters a building on a cold day in winter, especially if he has been riding, he will invariably repair to a fire to warm himself, if there is one. The most grateful fire one can enjoy under such circumstances, is one that presents a clear, cheerful blaze. Good, dry hickory wood in an open fire-place, having burned long enough to be in a glowing state of combustion throughout, is, I believe, every one's *beau ideal* of a pleasant fire. Such fires might be supplied to the cloak-rooms, but the objection to them would be the constant attention they would require to keep them always in full blaze. Anything less than that would be unsatisfactory, as, if a member came in nearly frozen, he would get warm by the general warmth of the hall before a fresh fire could be brought to the necessary heat-giving condition.

The gas fire-places which have been introduced into the residences of some of the wealthier citizens of New York, within the past three years, fulfill all the requirements of the case in the most complete and elegant manner. When not required the gas can be turned down to an ignition blaze, and the moment any one or more persons wish to enjoy an especial warmth they have only to turn on the gas, when there instantly occurs the most efficient and cheerful fire it is possible to imagine. I would place two of these in each of the cloak rooms.

III. COOLING AND DRYING THE AIR IN HOT WEATHER.

To reduce the temperature and moisture of the air of ventilation in the hot weather in summer is a much more expensive operation than warming and moistening it in cold weather. But, in the warm climate of Washington, the midsummer sessions are always dreaded by members of Congress. During the hot season of July, 1868, the House adjourned on two different occasions at an exceptionably early hour, because it was beyond the limits of physical endurance for the reporters to continue their labors longer in the fervid heat. Members were compelled to frequently leave their places and seek temporary relief in some breezy window. Some members, indeed, refrained entirely from appearing in their seats on those hot days. Of course, the oppression was much increased by the impurity of the air, owing to the faulty ventilation; but there can be no doubt that the comfort and health of the members can be greatly improved by cooling the air when it is so excessively hot, though it be pure and plentiful; and that those composing so important a body as the Congress of the United States should not be made uncomfortable and ill to an extent which every one recognizes as seriously interfering with the business they meet to perform, will, I think, be evident to all, even though the expense of reducing the temperature be greater than it has heretofore been customary to incur for any ventilating process. Some attempts have already been made in this direction, but, like all the features of the present system, the means employed were entirely inadequate to accomplish the end proposed. Thus, two tons of ice were melted in the air-duct leading to the hall of the House during each day, of about five hours—say, 800 pounds per hour. The quantity of air passing through the duct, with the blowing engine running at its usual speed of 42 revolutions per minute, as carefully measured by myself, was 24,300 cubic feet.

The temperature of the ice was, say ..... 25°
That of the water of condensation was, say ..... 60°
The latent heat of ice is ..... 140°

To determine how much the air would be cooled by melting ice—

Let t = temperature of the ice ..... = 25°
t' = temperature of the water of condensation ..... = 60°
l = latent heat of ice ..... = 140°
s = specific heat of air ..... = .2669
w = weight of air per cubic foot ..... = .075
v = volume of air in cubic feet ..... = 24,300
W = weight of ice melted per minute ..... = $13\frac{1}{3}$
x = number of degrees the air would be cooled by the melting of the ice.

Then,

$$\frac{W\,(l + t' - t)}{swv} = x = 4\tfrac{3}{4}°$$

As, however, the air thrown in by the present blower is mixed up with that which flows into the hall through the open doors, the temperature of the hall is only reduced about one degree by the melting ice.

The greatest absolute amount of moisture Dr. Wetherill found in the air at the Capitol in his experiments was 8.93 grains per cubic foot; and this was during the prevalence of a rain-storm. The temperature seldom rises above 95°, but it reaches that point often enough to establish the propriety of assuming that as the maximum.

If, now, we suppose the temperature to be 95°, and the moisture in the air at 9 grains per cubic foot, and we wish to reduce the temperature to 85° and not permit the relative humidity to rise above 85°, we must abstract 0.7 grain of water from each cubic foot;

Or,

$$\frac{140{,}000 + 0.7}{7{,}000} = 14 \text{ pounds},$$

from the whole quantity per minute.

At the moment of the condensation of this water from a vapor into a liquid its latent heat is given out into the air; so that removing the vapor is a warming process, as has already been shown that the addition of it is a cooling one. The additional extent which the air must be cooled to compensate for this latent heat of the vapor is expressed by the formula—

$$x = \frac{W\,l}{svw}.$$

Where W = the weight of water in pounds ..... = 14
l = latent heat of the vapor ..... = 1091°
s = specific heat of the air ..... = .2669
v = volume of air in cubic feet ..... = 140,000
w = weight of air per cubic foot ..... = 0.75
x = the number of degrees the air will be warmed by the condensation of the vapor.

With the above values $x = 6°$.

The entire cooling effect must therefore be equivalent to 16°. This would require 15,000 pounds of ice to be melted per hour, or, say, 37 tons per daily session of five hours.

Coal is cheaper than ice per ton, is more conveniently stored and handled, and one-sixth of the above quantity burned in the furnace of a steam-boiler will produce, through the medium of appropriate mechanism, an equal cooling effect upon the air. I would, therefore, discard the use of ice and employ steam power instead.

Machines are operated by the steam-engine for the manufacture of ice, which produce cold by the pumping off the vapor of sulphuric ether, or of the bisulphide of carbon; these liquids evaporizing rapidly at low temperatures, if the pressure of the superincumbent atmosphere be removed, but the employment of such substances would be inadmissible in cooling the air for ventilation, as a slight leak in even one of the many tubes it is necessary to employ in such mechanism would impair the purity of the air to a decidedly sensible and objectionable extent.

I would therefore employ the steam power to drive air-pumps to compress a portion of the air, making it hot, and while it was under this pressure, cool it down to the ordinary temperature by passing it through tubes surrounded by cold flowing water, employing an apparatus for this purpose precisely like the surface condenser of a steam-engine. This compressed air would then be conveyed to the duct through which the blowers were driving that which did not pass through the pumps, where it would be permitted to expand again to the ordinary atmospheric pressure. This expansion would be a cooling process exactly corresponding in extent to the heating one the air underwent when it was compressed, and by mixing this excessively cold air with the warm air from the blowers, the whole would be brought to the desired temperature.

It is mechanically convenient in a machine of this kind to compress two volumes of

air into one in the pumps. To learn how much such an amount of compression would elevate the temperature, a formula is given by Peclét in his Traité de La Chaleur, tome iii, p. 10, as follows:

Let θ = temperature before compression, (centigrade.)
d = density before compression.
θ' = temperature after compression.
d' = density after compression.

Then,

$$\theta' = (274 + \theta)\left(\frac{d'}{d}\right)^{0.42} - 274$$

In this case,

$\theta = 35°$ (= 95° Fahr.)
$d = 1$
$d' = 2$

and consequently,

$\theta = 139.44°$ cent., or 283° Fahr.,

and the elevation of the temperature would be 188° Fahr.

When air is heated in a confined space its pressure is increased $\frac{1}{480}$ part with each additional degree. The pressure of the atmosphere being 14.7 pounds per square inch, the pressure upon the pump pistons during the last half of the stroke would be—

$14.7 + (\frac{188}{480} \times 14.7) = 20.46$ pounds per square inch.

Let us say that we will maintain a pressure in our condensed-air cooler of 20 pounds per square inch.

To find how cold the air will be after its expansion, we have

$$\theta = \frac{\theta' + 274}{\left(\frac{d'}{d}\right)^{0.42}} - 274$$

The temperature of the Georgetown water during the hottest weather in summer is about 70°. As I would arrange the cooler so that there would be reverse currents of cold water and hot air, the latter would be cooled down to say 75°, which corresponds with 23.89° centigrade.

As the heat was abstracted from the air it would be further condensed $\frac{1}{480}$ part with the departure of each additional degree, the pressure being maintained; hence we would have

$\theta = 23.89$
$d = 1.$
$d' = \frac{14.7 + 20.}{14.7.} = 2.36$

Whence—

$\theta = -66.12°$ cent. or $-87°$ Fahr.

This would be a reduction from its original temperature of 182°. This being slightly more than ten times the amount of cooling force, it is necessary to apply to the whole quantity of air furnished one-tenth of that amount, or 14,000 cubic feet will require to be passed through the pumps. Allowing 10 per centum for loss, the dimensions of the air pumps will require to be as follows:

Number of pumps	2
Diameter of pistons	63 inches.
Stroke of pistons	6 feet.
Double strokes per minute	30

As the mean resisting pressure will be 12.4 pounds per square inch, the net power required to work them will be 900 horses. Allowing 10 per cent. for friction of engine and pumps, and we have 1,000 horses as the gross effective power of the engines. I would attach the steam and pump pistons to the same rods; with this arrangement the steam cylinders would have to be 45 inches diameter. I would employ a steam pressure of 40 pounds per square inch, and cut-off at one-fourth from the commencement. A surface condenser would be attached, and the mean gross effective steam pressure would be 29 pounds per square inch.

If the air was simply conveyed to the air duct and mixed with the warm air from the blowers, it would be cooled down below the desired temperature, and a portion of the moisture it is desirable to abstract would be condensed in the form of a fog and carried along with the air into the hall, which would thus be filled with a cold damp air, highly objectionable. It is necessary, therefore, to have the cold air introduced in a peculiar manner, such that not only may the moisture be abstracted, but that the exact amount removed may be subject of convenient and easy regulation by the engineer in the engine-room. The character of this regulation must necessarily be that the power exerted by the engine shall determine the extent of the cooling force, and that the

amount of this which shall be devoted to reducing the temperature of the air, and that which is devoted to abstracting the moisture, shall be subject to a regulating lever, or hand-wheel; so that if the engineer moves this in one direction the air will be made cooler and more moist, and if in the other it is made warmer and drier, the cooling engine continuing to run at the same rate.

To accomplish this I would erect in each of the cooling and drying chambers of the tempering ducts a congeries of tubes, somewhat similar to those employed for warming the air in cold weather, only I would have an additional chamber or chest at mid-height, so that there would be, in fact, two systems of tubes, one above the other; in other words it would be two stories high. Now, in the two upper chambers I would have openings in the bottom in all the spaces between the rows of tubes; these openings controlled by valves, and the valves appropriately connected with hand-levers, or wheels, in the engine-room; there being one for a system of valves which would control the openings in every third space between the rows, and one for the remaining spaces. The aggregate area of the openings in the lesser system should equal the area of the pipe which brings the compressed air from the cooling-engine; those in the other spaces, being of the same dimensions, would have in the aggregate twice this area. Then the compressed air should be conveyed by a pipe from a reservoir attached to the cooling-engine, to the lowest chamber; thence it would flow upward through the tubes into the upper chambers, then downward through the openings into the spaces between the tubes. The operation of this arrangement would be as follows:

Let us imagine a condition of the external air such as has been assumed for a maximum performance of the cooling-engine. In this case let the openings in two-thirds the spaces between the tubes be closed and those in the remaining spaces be wide open, the area of the whole being such that it would require a pressure of twenty pounds per square inch to drive all the air supplied through them. It will be perceived that the pressure throughout, from the pumps to the exit, will be 20 pounds per square inch, and that therefore the temperature will be maintained at 75° while the air passes through the tubes. As the compressed air pours down between the two rows of tubes and expands to the ordinary atmospheric pressure, its temperature will fall so suddenly that the moisture within it will be condensed and part of it frozen into minute hail. The main portion of the air from the blowers will pass through the remaining spaces between the tubes, and as they are only one-eighth of an inch apart in the rows, they form, in effect, walls of separation between the warm and the cold air. A sufficient quantity of the air from the blowers will, however, pass into the cooled spaces to carry forward the hail storm raging there, and as the hail and condensed moisture are carried along the narrow spaces they will come in contact with the surfaces of the tubes and be deposited upon them. The temperature of these will be too low to vaporize the moisture, but warm enough to melt the hail, and the water will run down them as it does along the sides of an ice pitcher, to the bottom tube sheet, whence it will pass off in proper drains prepared for it. With this arrangement one-third the moisture in the air may be removed when required by the lesser system of valves only being opened, and when less than this proportion requires removal, as will be almost universally the case, it can be governed with exactness by opening or closing more or less the remaining valves. As the air issues from the dryer it will be in vertical strata of cold, dry, and warm moist air, in the proper proportions, both with regard to temperature and moisture, to give the desired condition when they are mixed, which they will soon become as they pass along the duct. When, however, the external air is of the right temperature, or not much above it, but is so damp that it must be dried, the resulting temperature of the mixture will be too low, in which event it must be warmed up to the desired point as it passes through the heater. On the other hand, the external air may be so dry that when it is cooled down to the desired temperature it will still be too dry; when this occurs the moistening apparatus must be put in operation. Indeed, as has already been explained, it will sometimes happen that moistening the air will sufficiently cool it.

To enable the engineer in charge to control the condition of the air he delivered to the hall I would arrange pipes about three inches in diameter, and properly incased with a non-conductor of heat from the inlet duct and from the tempering ducts just beyond the moisteners, leading them through a convenient place in the engine-room for observation to the suction openings in the blowers, which would cause a rapid flow of air through them, having the exact condition existing at the other ends of the pipes. Into each of these pipes as they pass through the engine-room I would insert the wet and dry bulbs of a hygroscope, which should plainly indicate the temperature and degree of moisture in the air passing through the pipes.

The method here recommended for drying the air when it is too moist, or when it is made so by reducing its temperature, is simply the adoption upon a small but sufficient scale of that employed by nature in effecting similar changes of weather.

Dr. Metcalf, in his incomparable work on caloric, vol. i, p. 267, and following, describes and explains the influences exerted by the vapor of water upon the atmosphere and how it is added and removed. I quote from him as follows:

"As the phenomena of lightning have been universally known to be immediately

connected with the production of rain, it becomes necessary to ascertain with certainty the cause of evaporation and condensation before attempting to solve the problem of atmospheric electricity.

"That caloric is the true and only cause of evaporation, or the formation of steam, is one of those self-evident propositions which would seem to require no proof. But to remove all doubts upon the subject the fact has been experimentally demonstrated by Dr. Dalton, to whom the science of chemistry and meteorology is so largely indebted.

"He put a little water in a dry glass flask with a thermometer in it, when he found that a small quantity of vapor was formed at 32° Fahrenheit. At 40° the amount was increased; at 50° it contained still more vapor; while at 60° the quantity was yet further augmented. He also found that when the temperature of the flask was suddenly reduced from 60° to 40°, a portion of the vapor was converted into water, and that the quantity retaining the elastic form was precisely the same as when the temperature was originally at 40°.

"The above is a simple and beautiful representation of what is perpetually going on throughout the atmosphere and the steam-engine.

"By another series of admirable experiments he ascertained that the quantity of water evaporated in a given time was exactly in proportion to the elastic force of vapor at the same temperature, whether formed in vacuo or under the pressure of the atmosphere, with this difference, that in the latter case the process goes on much more slowly, because the atmosphere presents a mechanical impediment to its diffusion somewhat analogous to the obstruction of water by porous sand. From which he inferred that vapor is not chemically united with the air as has been formerly supposed, but mechanically diffused through it, forming a distinct atmosphere of its own, the elastic force of which is always in proportion to temperature.

"At 0° he found the elastic force of vapor equal to the pressure, .064 inch of mercury, that is, about one-fifteenth of an inch; at 32° it amounted to one-fifth of an inch; at 47° about one-third of an inch, or .339; at 59° .507, or one-half an inch; at 80° one inch; and at 90° 1.360. He also ascertained that the elastic force of vapor at 212° is equal to the pressure of the whole atmosphere, or 30 inches of mercury. (Manchester Memoirs, vol. v.)

"From the above experiments it follows that if the temperature of the earth were 80° from the equator to the poles, the quantity of vapor would be everywhere the same, and equal to about one-thirtieth of the average weight of the whole atmosphere; but that if its temperature were reduced from 80° to 59°, one-half the vapor would be precipitated in the form of rain; if to 32°, four-fifths of it would be converted into snow; and if reduced to 0°, 14 out of 15 parts of the whole would descend to the earth in the form of ice, in obedience to that universal law of nature by which bodies cohere and tend toward a common center.

* * * * * * * *

"If at the temperature of 80° the atmosphere contain an amount of vapor equal to the pressure of only half an inch of mercury, while it is capable of sustaining twice that quantity, it will require a reduction of temperature below 59° to cause precipitation. Hence it is that the atmosphere often undergoes great reductions of temperature without producing rain. But when the air is full of vapor the process of evaporation is arrested, which explains why a cold dry air is more favorable to evaporation than warm air that is already saturated, especially if the former be in a state of rapid motion.

"Dr. Dalton found that when boiling water was exposed to a current of air that carried off its vapor as fast as formed, vaporization went on a third faster than in a room where the air was still. Hence it is that the northeast and east winds, which in the west of Europe are generally dry, and far below the point of saturation, seldom condense the vapor of France and England; but, on the contrary, often redissolve the clouds already formed, producing clear weather. During summer, when the atmosphere has been for some time comparatively still, it is soon saturated with vapor, which is indicated by heavy dews, and the formation of clouds termed cumuli, in which case the weather becomes hot and sultry, because the caloric which is usually carried off by evaporation and winds accumulates on the surface of the earth, and heats the superincumbent air. Such a state of things generally forebodes an approaching thunderstorm.

"That the condensation of atmospheric vapor is owing to the abstraction of its caloric by colder currents of air is evident from the fact that in the tropical ocean far from land, where the trade-wind blows steadily in one direction, and where the temperature seldom varies more than two or three degrees, there is less rain than in the vicinity of the continents and large islands where currents of air of different temperatures frequently meet.

"In the great desert of Sahara there is scarcely any rain, because the wind blowing over it is generally in the same direction, while the vapor transported by it from the ocean is still further rarefied by the intense heat reflected from the scorching sands where there are no mountains to arrest its progress. There are also long droughts in

Egypt, Palestine, New Holland, and many other parts of the world, where the winds blow long in one direction without encountering colder currents. During summer in the United States the atmosphere is often so much heated that the vapor brought from the ocean by southern winds is not condensed for several weeks, and sometimes two months, but is further expanded until it becomes saturated, or meets with a current from the northern points of the compass, when thunder gusts follow.

"When I come to treat of winds it will be shown that the most extensive falls of rain in the middle latitudes are produced by the meeting of immense masses of air from opposite quarters of different temperatures, as during the equinoctial floods and storms. When both contain as much vapor as they can support at their respective temperatures, the amount of precipitation is of course the greatest.

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"By a careful analysis of the phenomena, it becomes self-evident that, *if caloric be the true and only cause of evaporation, condensation and precipitation can be effected only by the evolution of the same agent.* During winter the quantity and elastic force of vapor in the atmosphere are comparatively low in the middle latitudes, where it is condensed gradually on meeting with colder air. During spring evaporation augments with increase of temperature, when masses of warm and cold air often meet, causing frequent showers of rain and sometimes of hail, still without much thunder and lightning. But during summer, when the temperature becomes tropical and the atmosphere saturated with highly elastic vapor, we have tremendous explosions of thunder and lightning, with rapid precipitations of rain and hail."

It appears conclusive from the foregoing remarks of the learned writer that the mechanical arrangement I have described for cooling and drying the air, when it is very hot and sultry, is only wanting in magnitude to produce a regular thunder-storm in the air duct. The electricity will probably be evolved in precisely the same manner that it is in the heavens when very cold and very warm currents of air are brought suddenly together, but it will be on so comparatively small a scale that the observable phenomena of the thunder-storm will not be apparent.

It is reasonable, however, to expect that the same pleasant effect would be had upon the air that a thunder-storm has, viz: to give it a peculiar freshness, as if it had been washed clean, and as if it possessed renewed vital powers, giving every one elastic spirits and additional life and strength.

Since the discovery of ozone by the late celebrated German chemist, Schoenbein, it is generally supposed that the electric fluid developed during thunder-storms gave that condition, in considerable degree, to the oxygen of the air, and that its delightful freshness and invigorating character, as experienced after a thunder-storm, were due to this cause, ozone being a condition of oxygen which causes it to enter into chemical union with other substances with greatly-increased avidity. When, therefore, we breathe air of which the oxygen is in this condition, or which is impregnated with this principle, it unites, with an increased readiness, with the carbon and hydrogen, which pass into it out of the blood through the membranes of the lungs.

There is also good reason to believe that cooling the air by first compressing it, as I have recommended, will have the effect of developing ozone. Dr. Wetherill states in his report, to which I have several times alluded, (p. 91,) that—

"M. Saint Pierre (Comptes-Rendus, 1, viii, 420, 1864,) discovered a remarkable production of ozone, by the action of certain kinds of ventilating apparatus. He found that test paper placed in the tuyere of a blast-furnace gave evidence of ozone in a much stronger manner than when in the external air. And to show that the velocity of the current, bringing greater quantities of the air to the paper, was not the cause of the reaction, he placed, at the same time, similar papers upon the governor of a steam-engine in a saw-mill. From these, and other experiments, he concludes that the reaction arises from compressing the air."

Whether this desirable condition of the air would be imparted to it by the mechanism described, or not, there can be no doubt but the temperature and moisture of the external air could be modified, by the system I have recommended, from its most unpleasant condition, in any season of the year, to that which is most delightful, and without imparting to it any impurities or unpleasant odors.

To supply the necessary quantity of steam to the blowing and cooling engines, and for warming the air in cold weather, I would provide three boilers, the aggregate potential dimensions of which would be as follows:

	Square feet.
Grate surface	135
Heating surface	6,750
Calorimeter through tubes	27

COST.

I have carefully ascertained how much it will cost to carry out the foregoing programme, and, although it amounts to a larger sum, in the aggregate, than I find contemplated in any of the various reports which have been made on this subject, it is

very much less than was expended by the British House of Commons upon improving the ventilation of their hall, though it has the addition of the cooling and drying apparatus, the cost of which is a material addition to the expense; and, moreover, draws its air from an unobjectionable locality, while the air for the House of Commons is drawn through the side windows of the basement story, which, on one side overlook the court-yard where the carriages come for the members. The smell, as of an unclean stable, became so offensive that orders had to be issued that horses should not stand there when waiting. On the other side the windows overlook the Thames, and orders had to be issued in this direction against the passage, near the building, of barges filled with offal. I do not know the exact amount they have expended, but the following extract from the evidence of the Hon. E. P. Bouverie, M. P., a member of the House committee on ventilation, before a committee of the House of Lords, May 12, 1854, will give an idea of it:

"Question 762. Do you not think that Mr. Gurney's improvement in the ventilation of the house is mainly attributable to the windows being open?

"Answer. I have heard it said that the result of our spending £200,000 in the ventilation of the House of Commons has been to prove that the best way of ventilating the room is by opening the windows. We sit in the house a good many hours after the windows are shut; for instance, we did so last night, and the air, I think, remains very fresh and good."

Here is an expenditure of $1,000,000, in gold, with labor and materials so much cheaper than in this country that it would require $2,000,000 of our present currency to effect the same work here now, and even then they had not arrived at a fully satisfactory condition of their hall, as they made several changes subsequent to the above date.

The whole cost of the Capitol building, up to the present time, is about $12,000,000, and it is correspondingly grand in its conception and beautiful in its detail. The materials are of the highest order ever employed in building, and they are brought together with an exquisite taste and skill, which is probably unsurpassed in any edifice in the world.

The new wings are so arranged that mechanical ventilation is the only proper method, and that was adopted and is now in use. But the mechanism is utterly inadequate in its dimensions and power, is arranged upon erroneous principles, and is faulty in every detail of its design. It propels a feeble current of air up through the door of the halls near the western ends, which current continues upward and out through the ceilings, without having done much to ventilate anybody. In winter it is heated by rusty iron steam-pipes, without being moistened, and in summer the little ventilation there is may be said to depend upon the open doors.

Such a system in such an edifice is simply disgraceful. How much honor is reflected upon the nation by imposing colonnaded façades of purest marble; by grand corridors with tessellated floors, bronze doors, and frescoed walls; by great dimensions, or gorgeous gildings, and other ornaments, if the whole is kept filled with a mephitic atmosphere by a defective and deficient ventilating mechanism?

The conception of the ventilation of such an edifice should be as complete and superior in its character, as a scientific and mechanical work, as the building itself is as an architectural one.

The mechanism should be indebted for the principles which govern its arrangement and operation to a correct application of known physical laws. It should be scientifically proportioned throughout all its detail, that it might correspond with the building and with the work it had to perform.

Each part should represent the highest skill in the arts to which it pertains in its design, its material, and its workmanship and finish.

As in carrying into execution the plan I now propose, the Architect of the Capitol will be called upon to erect a ventilating house, in which to place the necessary machinery and apparatus, it would be entirely within his province to excavate for and construct underground air-ducts and to reconstruct air-ducts within the building. I would therefore confine myself to furnishing the following, which I will do at the prices named opposite each item, to wit:

One pair of surface-condensing engines of 250 horse-power, for driving blowers, with wood gear fly-wheel; all erected in place complete	$17,630
Four blowers for the House of Representatives, each having a capacity of 80,000 cubic feet per minute. Four blowers for the Senate, each having a capacity of 60,000 cubic feet per minute, with shafting, hangers, gearing, pullies, belts, &c., all erected in place complete	13,200
One pair of surface-condensing engines, of 1,000 horse-power, and connected thereto a pair of compressing air-pumps of sufficient dimensions to absorb the above power when compressing air to a pressure of 20 pounds per square inch above the atmosphere, and connected with these pumps a tubular compressed air-cooler, having 3,000 square feet of brass tube surface, all erected in place complete for cooling and drying the air in hot weather	108,000

Drying apparatus, having 7,750 square feet of block-tin tubular surface, with regulating valves complete, for renewing the moisture from the air when it is too damp, or when it is made so by having cooled it, all erected in place..	$49,170
Heating apparatus, having 78,000 square feet of block-tin tubular surface, with steam and water-pipes, and valves complete, all erected in place.....	246,000
Three boilers and their appurtenances, having in the aggregate 135 square feet of grate surface, and 6,750 square feet of fire surface, and capable of generating steam for 1,250 horse-power, and of sustaining a working pressure of 50 pounds per square inch above the atmosphere, all set in place complete, with copper steam-pipes to engines.....	36,370
Moistening apparatus, made entirely of block-tin pipes, and equivalent to 70,000 square feet of pan surface, all erected in place, with valves, &c., complete.....	11,580
Extra ceilings of plate glass and iron of double thickness, extending over the entire halls; rearranging the gas fixtures over new ceilings; perforating the ceiling for the passage of the air into the halls, and supplying wire-screen deflectors to distribute the air equally over all parts of the ceilings; all complete and in place.....	128,300
Wire-gauze fitted to backs of seats in galleries for passage of foul air through floors of galleries, perforated plates fitted to cornice of front of galleries for passage of foul air, and to prevent the exhalations of persons leaning over it from passing down to Senators and members on the floors of the halls, and additional registers in the floors of the halls so that there shall be at least one to each desk.....	19,910
Sixteen gas fire-places, with marble mantles complete, in the cloak-rooms; new registers in cloak and committee rooms and corridors.....	19,000
Indicating air-pipes, hygroscopes, Hotwell thermometers, steam cylinder indicators and fixtures, engine counters and clock for engine room.....	4,880

RECAPITULATION.

Blowing-engines.....	$17,630
Blowers.....	13,200
Cooling-engines.....	108,000
Drying apparatus.....	49,170
Heating apparatus.....	246,000
Boilers.....	36,370
Moistening apparatus.....	11,580
Extra ceilings, &c.....	128,300
Wire-gauze, registers, &c.....	19,910
Gas fire-places, &c.....	19,000
Instruments.....	4,880
Total.....	654,040

The work remaining to be done by the Architect will be as follows:

First. The construction of a suitable ventilating house in the western park for the reception of all the boilers, engines, blowers, heaters, dryers, moisteners, &c. It should be 75 feet long by 50 feet wide, have two stories and a basement. The blowing-engines, cooling-engines, and the blowers would occupy the ground floor; the dryers, heaters, and moisteners the upper story; and the coal and boilers the basement. The boilers themselves would be placed in a recess on one side 30 feet wide by 36 feet long, so as to be under a pavement only, that, in case of an explosion, the building and the machinery within it might not be injured. The upper story of this building will contain four temporary air-ducts extending longitudinally the entire length, and 8 feet wide in the clear. It is in these that the heaters, &c., will be placed, the air being driven up from the blowers into one end and escaping into the supply air-ducts at the other. Each story, and the basement of this building, should have a height in the clear of not less than 15 feet. On the top of the building there should be a tower at each end, to serve as inlet-ducts. They should each have a cross area of 40 square feet. The height of these towers may be such as to render them visible or not, as the Architect may elect.

Second. The construction of air-ducts from the ventilating house to the space above the ceiling, at each end of each wing, making four ducts for the conveyance of pure air, one from each tempering chamber. Each of these ducts must have a cross area of 20 square feet in the direction of the House of Representatives, and 15 square feet in the direction of the Senate, and must be distinct from each other during their whole length.

Third. The conversion of the space beneath the floor of the halls into one chamber, it being now a complicated system of air-ducts.

Fourth. The construction of air-ducts from each end of each of these chambers to the ventilating house, making four ducts for foul air, each one will communicate with an exhaust blower. These foul-air ducts must be of the same dimensions as those which convey the pure air, and must also be kept distinct from each other during their whole length.

Fifth. The construction of a foul-air and smoke conduit from the ventilating house to the base of a chimney which shall be situated without the grounds. This conduit must have a cross area of 96 square feet. I would introduce the smoke from the boilers to the center of this conduit, and thus the foul air from the blowers would act upon it in the manner of the syphon ejector, and maintain a force draught through the boilers, which will insure their invariable efficiency. In the construction of all these air-ducts it is important that the areas be not contracted at any part, because the power required to furnish a given quantity of air in a given time must be doubled if the velocity is doubled, and I have computed the power required upon the basis of the areas above given. It is also important that when the direction is changed, it should, for obvious reasons, be curved as much as the circumstances will permit. Those ducts which convey the pure air upward within the buildings may, in the south wings, be situated back of the grand stairways. In the north wing they should occupy the southwest and southeast corners of the wing. The foul-air ducts can occupy at the western side the same position as the present pure-air ducts, and on the eastern side similar ones can be provided.

Sixth. The construction of a chimney in some locality out of the grounds, having a cross area of 96 square feet.

Seventh. Introducing a Potomac water-pipe, of not less than six inches internal diameter, into the ventilating house, and providing a drain of equal capacity from the building.

The foregoing work, executed in a thorough, first-class manner throughout, will result in a ventilation of the Capitol which will elevate it to the position of being the grandest public building in the world.

The peculiar feature of having the halls surrounded with inclosed corridors, now so generally condemned, will be appreciated for its convenience, and for the very fact of the impossibility of any interference of the weather on the outside with the delightful air which will be constantly maintained within. It is only occasionally that nature gives us the pleasantest condition of the atmosphere for weather, and when she does, how everybody salutes his friend by reference to the charming day! How thoroughly we all appreciate it! How it elevates the spirits and invigorates the health! What I propose is to make the weather within the building charming all the time.

ACOUSTICS.

There will be another feature of marked superiority developed by the adoption of this plan of ventilation, and that is, the acoustic properties of the two halls. These are now very bad and are justly condemned, though I do not consider that the fault lies in the architecture. Indeed, few halls are so well designed in this respect.

In a hall where each of the audience becomes in turn a speaker, it is essential that dependence for audibility shall rest entirely upon the direct transmission of the sound from the mouth of the speaker to the farthest listener. If the speaker were always to occupy a given position, then the walls and ceilings could be so constructed in regard to form and materials that the sound would be reflected in a manner to assist the direct force of the voice, but this is impossible where the speaker may occupy any part of the floor; and in such case, care must be taken that there are no reflections of the sound, as, except the various reflected rays and the direct rays of sound arrive at the ear of the listener at about the same time, it causes confusion and fatigues the listener. These appear to have been the ideas of the architect when he designed the halls. The trouble now is the imperfect transmission of this direct ray of sound from the speaker to the listener.

When it is remembered that sound is transmitted by verberations of the air, it is easy to understand that currents moving in different directions about the halls, or inequalities in the temperature and consequent density of the air in different parts, through all which the waves of sound must pass, would so disturb such waves that by the time they reached the ear of the distant listener they would be greatly broken and neutralized, and the clear, distinct articulations uttered by the speaker would in consequence be so jumbled and mixed up that what he is saying can only be determined with difficulty.

In the system of ventilation I propose, the air enters through all parts of the ceiling with uniform force, and by the time it has descended ten or fifteen feet it has become a tranquil stream, slowly descending in a quiet mass. When a speaker sends his voice through this quiet air, the waves of sound will cross the entire hall without being broken or confused, and the utterances of the speaker will be conveyed intact to the ear of the listener, mellowed and softened only by distance.

Throw a pebble on a calm day into the middle of a deep flowing river having a slow current,and you will see the waves from it preserve their circular form and their distinctness until they are broken on the banks, but let a breeze ruffle the surface of the water, or let rocks beneath disturb the current, and the waves from your pebble will extend but a short distance from their source before they will be broken up and disappear; and so it is with the passage of sound through the air; eddies and counter-currents interfere at once with it, and unless it is more powerful than these disturbing causes it is destroyed in a short distance. As now ventilated, every speaker must pitch his voice much higher and give it much more force, and every listener must give more careful attention to what is being said, than will be necessary if my plans are executed. Indeed I feel confident that all complants against the acoustic properties of the halls would cease at once this went into operation.

PROPOSAL.

I am prepared to enter into contract and furnish satisfactory sureties to execute the foregoing work in full accordance with the letter and spirit of this proposition for the hereinbefore said sum of $654,040, in eighteen months' time; payments 5 per cent. of the contract price monthly during the progress of the work, until 87½ per cent. shall have been paid, the final 12½ per cent. to remain unpaid until August 1st, 1872, when it shall be paid in full unless a resolution shall have passed Congress to the effect that the work is unsatisfactory.

I am, very respectfully, your obedient servant,

ALBAN C. STIMERS.

Hon. JAMES W. NYE,
Chairman Joint Select Commtitee on Ventilation and Acoustics.

OFFICE OF ALBAN C. STIMERS, NAVAL ENGINEER,
No. 45 William Street, New York, May 2, 1870.

DEAR SIR: Agreeably to your request that I would suggest such a course of experiments as would determine with scientific accuracy the exact character of the present ventilation of the halls of Congress, I beg leave respectfully to offer the following:

The theory of the present system is, that a sufficient supply of fresh air is forced into the halls through the floors by means of fan blowers in the sub-basements driven by steam-engines; the air from these blowers passing through single main ducts to the height of the floors, and then distributed throughout the area of the halls by smaller ducts, leading in different directions to all parts, the air rising from them through registers placed in the floors. From these registers the air is supposed to rise vertically, ventilating the people as it ascends to the ceilings, which are perforated for its egress.

Now, *if* the quantity of air supplied by the blowers was ample; *if* it was equally distributed throughout the floors and galleries of the halls; and *if* it rose vertically from each point of ingress to the perforated ceiling, there could not exist the foulness now so evident in certain parts of the halls. I would therefore recommend that the following facts be determined:

1st. The gross quantity supplied by the blowers.
2d. The per centum of this quantity which enters at each register.
3d. The direction the air takes from each register.
4th. How long it takes the air from each register to reach the ceiling.
5th. The condition, as to foulness, of various parts of the halls and galleries.

The foregoing should be ascertained with different conditions of use, such as when there are many people and when there are few, and indeed when there are none; when the doors are kept open above and below, and when they are kept shut; when the doors are kept open on a calm day and when on a breezy one. Such a series, well conducted, would, I think, give a very clear indication of the causes of complaint and would explain the acoustic difficulties as well.

To arrive at the velocity and direction of currents, I would employ toy balloons. By attaching to each one an open envelope it will be convenient to weight this with sand until the specific gravity exactly corresponds with that of the air, and the envelope can be marked with a number, or otherwise, for its identification. By placing one of these over a register it will pass with the air to wherever this flows, lodging finally at the point of egress. By starting a number of these at the same time from various parts of the floors and galleries, a very striking impression would be made to all observers as to the currents going on within the chambers.

For a proper scientific record, however, there should be only one at a time, or not more than can be accurately watched by special observers. These should be properly stationed, with diagrams of the chambers before them, and should mark on these dia-

grams the course of the balloons, marking the positions they occupied at the end of each minute. From these, general diagrams could be drawn which would indicate the currents under the different circumstances obtaining at the times of the observations.

To determine the per centum of the whole quantity of air which should enter at any given point, I would start a balloon at the register and note the time of its passage through a given short distance, say two feet, and multiplying the velocity thus found by the area of the openings in the register, the amount admitted there would be found. To measure with accuracy the short periods of time this would require, I would employ a clock which was provided with a moving strip of paper, the paper moving with a given known velocity, say two inches per second; a pointer held down upon this with the finger, during the desired period of observation, would make a mark on the paper the length of which could be accurately measured. Such a clock would cost not exceeding $60.

To determine the foulness of the air at various points of the floors and galleries, I would do it by determining the amount of moisture of each point, and compare this with that contained in the inflowing air.

The average man requires 6 cubic feet of air per minute to absorb the moisture which emanates from him, while he only requires one-quarter of a cubic foot to absorb the carbonic acid gas of the breath.

Moreover, the carbonic acid gas in the exhaled breath is not the cause of foul smells, but the moisture which emanates from the person is loaded with worn-out animal matter, which, though not immediately offensive, if from a clean, healthy person, soon becomes so. To measure the additional amount of moisture at any given point is, therefore, to determine the foulness of the air at the same point. This can be done by the careful use of hygrodeiks, which can be placed upon the desks of members and on the seats in the galleries. These cost $15 each, and a dozen of them would suffice.

The toy balloons are prepared every morning here in New York by persons who gain a livelihood by selling them on our streets in the afternoon. People buy them for the amusement of their children on their way home. It will be necessary to carry a man with his apparatus to Washington, as they have to be refilled every morning, the gas always oozing out in a few hours. The expense of these would be small, the man being employed as an assistant.

I think the foregoing, properly executed and reported upon, the report illustrated with the diagrams indicated, would add a fund to our information on this subject, the value of which would exceed its cost many times over, as whatever may be accomplished by heating, cooling, moistening, and drying the air of ventilation by superior methods, it avails nothing unless the air is *constantly renewed in every part of the vast halls.*

I would recommend that the committee appoint a competent person to carry out the entire programme and report to it the results obtained.

I am, very respectfully, your obedient servant,

ALBAN C. STIMERS.

Hon. THOS. A. JENCKES, M. C.,
House of Representatives, Washington, D. C.

MR. LUTHER ROBINSON'S PLAN FOR VENTILATING THE WINGS OF THE UNITED STATES CAPITOL.

No. 46 CONGRESS STREET, BOSTON, *June* 10, 1870.

To the Congressional Committee on Ventilation, Washington:

GENTLEMEN: The failure of most attempts to secure the satisfactory ventilation of buildings clearly proves that they have been made without regard to the true principles, on the right application of which, alone, success depends.

All simply "ejecting" plans, with or without the aid of heat, are wrong in theory; and are, therefore, as proved by universal experience, inefficient and unsatisfactory in practice; and all forcing plans are costly, for machinery, power, and care, even if excellent results *can* be secured, and, as to results, I have seen many cases of failure, and none of marked success.

The philosophical reasons for their failure it is easy but not necessary now to state.

It is not my present purpose to write a general essay on ventilation, nor to correct, describe, or discuss, unless briefly and and incidentally, the various theories on this subject, nor even to recall to your minds the several interesting collateral questions often and properly discussed in this connection, presuming all these to be as familiar to the committee as to myself.

My purpose is, rather, to propose a definite *practical* plan for securing, *beyond the possibility of failure*, a highly satisfactory condition of the atmosphere in the legislative halls in the Capitol in Washington.

After full and careful study of the philosophy, operation, and results of all systems

in use in this country, and with an experience in ventilating many hundreds of buildings, small and large, with the most complete success, without an approach to a failure—in the last six years, at least—I can speak on this subject with the confidence of knowledge not merely theoretical.

I have fully considered the construction and circumstances of your legislative halls, and know precisely what is needful to make their atmosphere constantly fresh and comfortable, and shall offer to ventilate one or both of them, in accordance with the general plan herein indicated, executing all mechanical work in style and manner entirely satisfactory to the committee, after examination; also, SECURING and WARRANTING *results* entirely satisfactory after a reasonable trial, on terms to be named in separate, more detailed specifications and proposals, soon to be made.

The proper ventilation of the Capitol, as of other buildings, requires the furnishing of an abundant supply of fresh air, its proper distribution, and the effectual removal of air from the building.

By the system of ventilation which I have orally explained to you, all of these objects are satisfactorily accomplished.

Beyond all doubt, fresh air is furnished, and impure air efficiently removed, and, with proper skill in the application of the system, without annoyance from currents.

To the roofs of buildings we apply structures of iron or other material—*ventilators*, of peculiar construction, having mouths open in every direction, subdivided by several partitions, with tubes, straight or angular, long or short, as needful, subdivided to correspond with the divisions of the ventilators, extending through the upper portion of the building, and reaching proper points in the ceiling of the room to be ventilated. We thus establish communication, through numerous passages, between the room and the external air.

Through these ventilators and connecting tubes *alternating currents of air pass.* Through some of them fresh air passes in, and is properly distributed, while through others impure air passes out, securing thus the real, efficient, quiet change of air, which constitutes good ventilation.

This is not theory, but fact, easily ascertained by intelligent examination of any one of the thousands of these ventilators already in use; and the results of the change are manifest to the most casual observer.

Over the Capitol, and within ten feet of its roof, an abundance of air passes, every day in the year, to ventilate, even excessively, more than a score of such buildings. It moves with a momentum varying with its velocity, but ever sufficient for our purpose.

We use this undoubted "power of the air" as one of two forces to accomplish our end. Whatever its velocity or direction, it presses against some face and into some mouth or mouths of these ventilators, and is conducted through some of the tubes to the room, as surely as water and illuminating gas, under pressure, are driven through their pipes to distant points for convenient use.

The necessary consequence of this influx of air is condensation, if the room is tight, or exit if not tight. But with the construction described there *can* be no condensation, as some faces under the lee must be less pressed than those against which the wind blows, allowing easy exit to the air driven out in consequence of the entrance of air on the opposite side.

This operation is visible to all who, on a frosty day, pass any of the three hundred drying and dressing rooms on which these ventilators are used.

From three rooms of this class, under control of members of present Congress, moisture enough has already been removed to form, when condensed, not less than forty thousand barrels of water.

The ordinary heat of a room, from whatever source derived, acts as another motive force, establishing and keeping up this same alternation of currents, even without the aid of wind.

Heat drives air through some of these passages, and not through all of them, while external air, even by its weight alone, falls in to supply its place.

This is a demonstrable *fact*, which no argument can make more plain, nor any theorist disprove.

Thus, considering the impure air of a room simply as matter, subject solely to the laws of force, moving only as *moved*, we have at our command, and through these structures use, as forces, *wind and heat*, acting efficiently, separately or concurrently, effecting the desired change of air.

We thus provide for the efficient and quiet ventilation of any building, at all times, unless in the extremely rare but theoretically possible case of the failure of both forces.

But if, by respiration and radiation the temperature of the air is not increased, and if, at the same time, there is no appreciable movement of the external air, it is perfectly safe, and may add to comfort, to open all doors and windows.

Providing, as we do, for all cases in which it is desirable to close them because of the discomfort due to cold air or to currents; securing, as we do, at all such times, results closely bordering on perfection: we need not be too solicitous in regard to a possibl

conjuncture of conditions which may not exist during a single hour in a year, and for which provision can be made *only*, EVEN IF, by the use of a "mechanical power," already at your command.

Our ventilators standing on the roof, so low as not to be conspicuous from the ground, should be sufficiently large and numerous to correspond to the wants of the largest audience; only a portion of them being in use when the audience is small.

The tubes or boxes in the attic would need to be very large and complicated, extending over the entire galleries on all sides of the halls.

The ceiling over these galleries is very open, affording all or nearly all of the needed space.

In the ceiling of the Senate chamber no change would be needed, and in that of the House only an enlargement of the openings at about 200 points, between the brackets, next to the walls on all sides of the hall—a change not noticed unless on close inspection.

All of these *pores* in the ceiling would be used for the actual passage of the incoming and outgoing air.

They are admirably arranged for its proper distribution, in streams mild as the gentlest shower, the rising vapor, or the falling snow.

The halls might almost be said to breathe, taking in the good and expelling the bad air. If all breathe in unison, the halls as fast as the audience, as they may, nothing better can be required. Let the carbonic acid, observant of fundamental law, float into the outer air, as it will, all authorities and all theories "to the contrary notwithstanding," and we need have no fear that vegetation will fail to perform its work, and make the needful restoration.

From this "carbonic acid question," on which no darkness needs to rest, it would afford me pleasure, if time allowed, to brush the mists and myths with which false teaching has surrounded it.

Orally, I often discuss it in full, and shall be pleased *thus* to give to the committee, if they desire, the facts and the law of the case.

Not merely these large halls, but their surroundings also can be vastly improved.

Over each stairway, besides the glass, is a very extensive porous ceiling.

All of this open space I would convert into immense respirators, our large, complex, and very angular boxes covering the whole, and connecting it with *giant* ventilators standing on the roof over the passages at the head of the stairs.

Through our ventilators and boxes thus arranged, injection *and* ejection will be effectually accomplished, securing throughout the stairways and connecting passages a state of freshness hitherto unknown, and not attainable, unless at enormous cost, by any other known plan.

All the rooms opening into these passages, especially those above the first story, will be improved in condition; and most or all of those occupied by a few persons may be sufficiently ventilated by the frequent opening of doors, allowing direct communication with a reservoir of fresh and constantly changing air.

There can be no doubt as to the operation and results above indicated, as I have at least a score of successful similar cases.

The effect, I have no doubt, will be appreciable even below the level of the floor of the legislative halls, but in all the space above that level it cannot fail to be most. marked.

These ventilators should be so large that if 3,000 persons should occupy the stairways and passages in each wing, with all doors and windows closed, there would be no suffering for want of pure air.

This arrangement alone would be of vast benefit to the occupants of the legislative halls, especially when the audience is large, as all the doors from the halls would be likely to be then open.

Such, gentlemen, is the general plan which I shall offer to apply to the wings of the Capitol.

Its universal success, wherever properly applied, is an index of what we may expect in the future.

In the House, a few weeks since, reference was made to the discomfort due to heat from the burning of gas above the ceiling.

A plan for securing almost complete protection from that annoyance can be easily applied.

Very respectfully,

LUTHER ROBINSON,
Agent of U. S. Ventilation Co., of Boston.

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46 CONGRESS STREET, BOSTON, *May* 5, 1870.

DEAR SIR: As your committee have the money appropriated for experimenting, would not it be well to use a part of it in the actual ventilation of some room, so that results

can be seen and appreciated? The court room in which Surratt was tried, the common council room, all school rooms, &c., greatly need ventilation. That court room I could ventilate probably for $500 or less, so that two hundred men could not "smoke it out," or make much bacon there, and all would be right for permanent use.

If your committee would like to let me use up a part of the money I think I can show them highly satisfactory results.

I hardly had time to say to you that the annoyance mentioned in the discussion, of excessive heat from the gas, can be vastly diminished at small cost, and within a few days. I have no time now to explain details.

Yours, truly,

L. ROBINSON.

Hon. T. A. JENCKES.

WASHINGTON, *June* 23, 1870.

To the congressional Committee on Ventilation:

GENTLEMEN: I offer to apply to the southern wing of the Capitol the system of ventilation already described, using for the stairways two nicely constructed ventilators of wood, not less than 6 feet square, and for the hall of the House two of the same size and style; also six of galvanized iron, 3 feet square, all well made, painted, and strongly fastened to the roof. The interior tubes or boxes connected with them to extend over the ceiling of the entire galleries and the iron ceiling over each stairway, but not intercepting the light over the stairs. To protect the boxes in the attic from the effects of heat, their exterior to be lathed and plastered. Proper valves to be arranged with cords extending to some convenient point, as the stairway leading to the attic. All mechanical work to be properly done, to the satisfaction of the committee, or such agent as they may appoint. The amount of ventilation thus proposed for the hall, independent of the indirect effects from ventilating the stairways and passages, being more than three times as great as I have ever applied for two thousand persons, cannot fail to be abundant for any audience. Indeed, under ordinary circumstances only a small portion of the entire efficiency would need to be used.

I have had much opportunity to study the effect of heat as transmitted through roofs, windows, walls, &c., and in several instances have caused valuable remedies to be applied.

When the lights are burning in the attic the temperature, I am told, is from 180° to 200°. If the ceiling were tight and covered with water at nearly a boiling temperature there would be no doubt as to the communication of an uncomfortable heat to the air below. From the great heat of the air in the attic, the glass and iron of the ceiling afford no sufficient protection. The obvious remedies are to ventilate the attic more efficiently, and to protect the ceiling from contact with hot air by covering the whole with good non-conductors.

If our plan of ventilation should be applied, as proposed, all of the ceiling over the galleries would be abundantly protected. The other portion of the ceiling, except the glass, should be covered with some non-conductor, as shavings from a planing-mill, and a tight floor, on proper frame work, laid over the whole; or, above this part of the ceiling there might be two floors, with intervening closed air spaces, affording almost complete protection from the heat above this portion of the ceiling.

Over the glass I would propose to place additional sashes fitted with two panes of white glass in each panel. Make all tight around the old sashes, and there would be between the heads of members and the hot air above three plates of glass and two intervening masses of confined air, and the annoyance from this source will be reduced to a minimum.

My proposal will include—

1. The ventilation of the stairways and passages, as described.
2. The direct ventilation of the Representatives' hall, as described.
3. The more efficient ventilation of the attic, as I may deem expedient.
4. The better protection of members from heat from the gas, on the plan above described.

The total expense of all these improvements I estimate at $30,000.

I am ready to execute the whole in proper style for the sum named, one-half to be paid on completion of the mechanical work described prior to the middle of November next, to the satisfaction of the committee or of their agent, if one shall be appointed; and the other half after a reasonable trial of the system and the securing of satisfactory results.

The Senate chamber, being smaller, would require arrangements less extensive. This wing I could ventilate satisfactorily and furnish similar protection to the ceiling for $20,000.

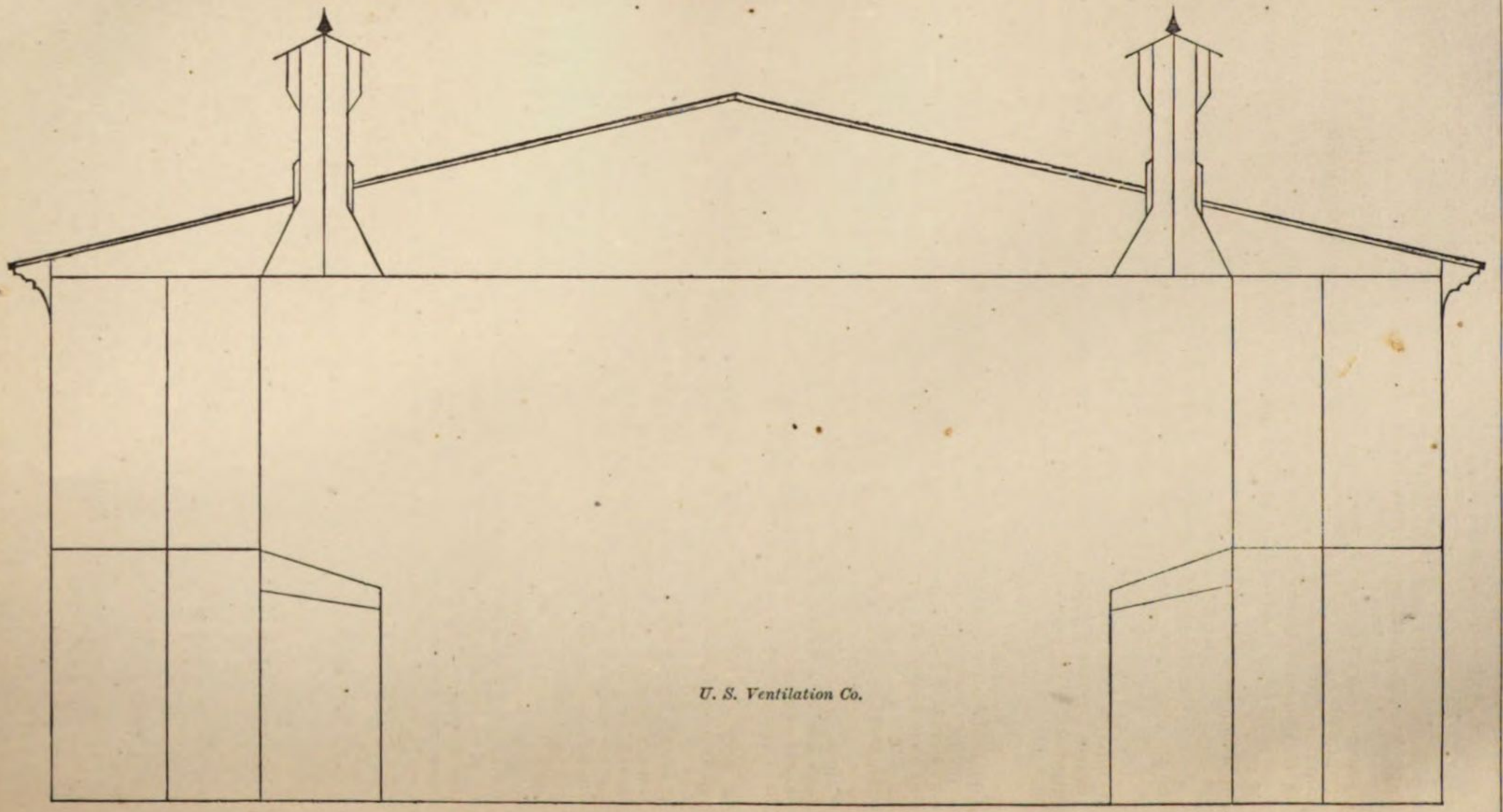
Very respectfully,

LUTHER ROBINSON,

For himself and the United States Ventilation Company of Boston.

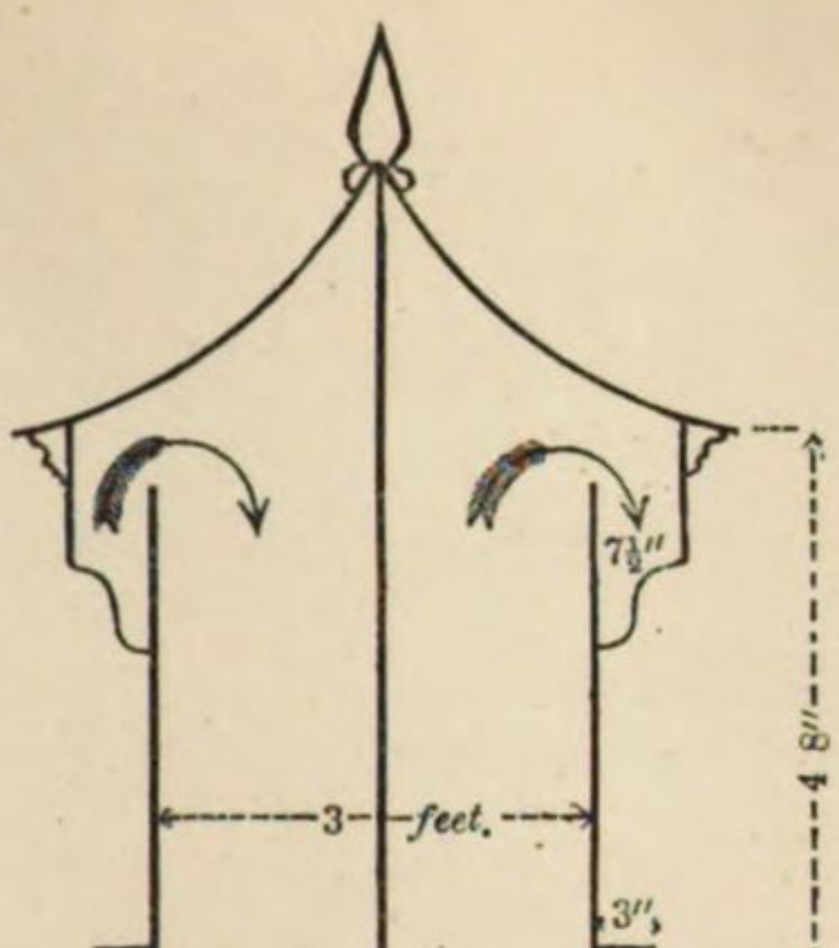
LUTHER ROBINSON'S PLAN FOR VENTILATING THE WINGS OF THE UNITED STATES CAPITOL.

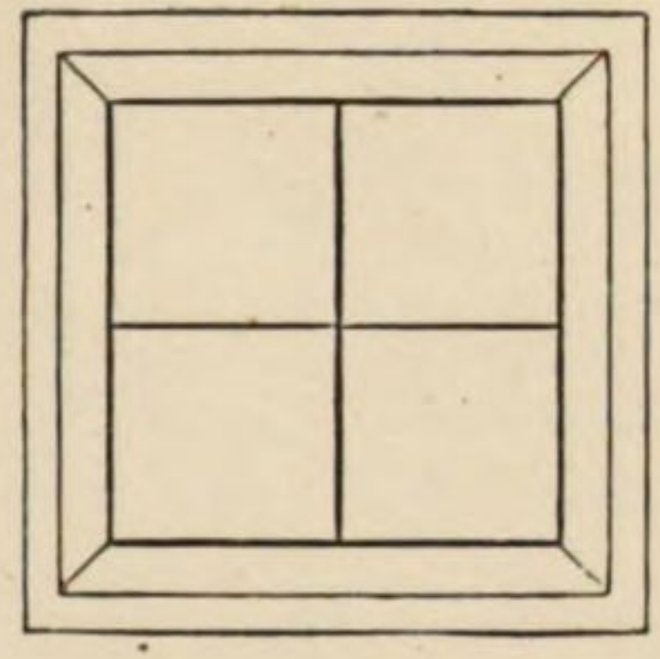
Sketch showing a cross-section of the Representatives' Hall, and one view of ventilators on the roof spreading across the galleries.



U. S. Ventilation Co.

U. S. Ventilation Co.,
L. Robinson, Agent,
Boston.





BOSTON, *July* 6, 1870.

SIR: I propose to apply to the south wing of the Capitol the system of ventilation described in my printed pamphlet, recently sent to you, substantially as follows:

1. At proper points near the glass over each stairway apply a ventilator 6 feet square, (or two of 4 feet square,) the boxes in the attic being so arranged as to use all of the open space over the stairways as mouths of the ventilating boxes. The boxes above said space to be so constructed as not to obstruct the light, the divisional planes being all vertical, and the glass of the roof forming the upper surface.

2. For direct ventilation of the Representatives' hall, at proper points on the roof apply eight ventilators, each 4 feet square, the boxes within the attic being so spread and arranged as to cover the entire galleries, using as mouths all of the open surface of the ceiling.

The openings between the brackets, next to the walls, I should wish to enlarge as much as practicable without disturbing the molding.

The boxes within the attics to be of galvanized iron, properly seamed, or riveted and soldered, all being strengthened and kept in place by such iron rods or frame-work as may be needful. All work to be well done.

Valves on iron axles to be of plate-iron of proper thickness, and cords for working them carried to some convenient point, as the stairway leading to the attic.

All the ventilators on the roof having for strength and stability a frame-work or foundation of wood, to be entirely and nicely covered externally with copper and lined on the interior with galvanized iron, so as to be entirely fire-proof.

Two of these ventilators would be abundant for any audience that I have seen in the hall, and the whole proposed is sufficient, under ordinary circumstances, for at least six thousand persons.

I am ready to contract to have the whole completed on or before November 20, in accordance with the spirit of the printed "plan" and of what is above written, in style and manner satisfactory to the committee after examination early in December, for the sum of $40,000, one-half to be paid on examination and approval of the mechanical work by the committee as above, and the other half on their approval of the results secured during the month of December.

Very respectfully,

LUTHER ROBINSON,
Agent United States Ventilation Company of Boston.

Hon. THOMAS A. JENCKES,
Chairman Committee on Ventilation.

P. S.—Within a few days I have seen an illustration of the benefits of this system as used in very hot weather—the air of a large occupied room being kept fresh and comfortable at 80°, while in similar rooms the temperature was 98°. Sufficient ventilation was received, excessive ventilation avoided, and every window was closed.

I am sure that the ventilation of this hall in hot weather can be so managed that the temperature shall be from 12° to 20° lower than if doors and windows are left open, as during the last month.

Respectfully,

L. R.

BOSTON, *January* 18, 1871.

DEAR SIR: I inclose a sketch showing a cross-section of the Representatives' hall, and one view of ventilators on the roof spreading across the galleries. The sketch formerly sent shows a ventilator, with box in the attic, spreading lengthwise. A series of them would cover the entire galleries. The proportions may not be accurate, but I am sure there must be abundant space to work in the attic.

The fans would never be needed for *ventilation* if our plans are used, although possibly in very warm weather currents of air from them, cooled by ice, or water, might give increased comfort.

We have found no difficulty whatever in the use of our plans in rooms warmed by hot air, where heat from furnaces or steam-pipes is the moving power.

Whether air is driven in by heat alone, or by fans, or by both, the principle is the same, and if we make our ventilators and the openings in the ceiling large enough, I cannot doubt that the results would be entirely satisfactory. As a matter of choice I should prefer that the fans should not be used at any time.

With the vast amount of steam-pipe used I think there can be no difficulty in supplying an abundance of air for warming, even without the aid of fans. If used at all, I should prefer to have them used only before the sessions, or at a *low speed* during the sessions.

The numerous openings in the ceiling are abundant for any ordinary audience; but the ventilating area can be increased by about 50 square feet if we remove the finely

perforated iron now between the brackets, on all sides of the hall; or still more by removing that and the surrounding moldings, gaining thus, perhaps, 160 or 180 square feet. In either case, these spaces should be covered by very open ornamental work. The space cannot fail to be abundant, even if the (interfering) fans *are* used, at full speed.

The true way is, to abandon the idea of using fans with any view to *aid in ventilation*, for which purpose they are surely unnecessary. If ever used, it should be to supply cooled air in very hot weather, or to aid a little, if needful, in supplying air for warming the halls in advance of occupancy.

Excuse unavoidable delay in making these promised suggestions.

Very respectfully, yours,

LUTHER ROBINSON,
Agent United States Ventilation Company.

Hon. THOMAS A. JENCKES.

VENTILATION OF THE HALL OF THE HOUSE OF REPRESENTATIVES.

JUNE 20, 1868.

Mr. Covode, from the Committee on Public Buildings and Grounds, made the following report:

The Committee on Public Buildings and Grounds, to whom was referred the resolution—"Whereas the confined and poisonous air of the hall and corridors of the Representative wing of the Capitol has caused much sickness and even several deaths among the members of this House, and under present arrangements must continue to remain in a poisonous condition: Resolved, That the Committee on Public Buildings and Grounds be directed to examine at once and report to this House by what means a sufficient supply of pure air may be obtained for said hall, and that said committee be empowered to use the present means of ventilation to the best advantage for the present; and that they report by bill or otherwise"—make the following report:

That they have given much attention to the subject. That after examining the several reports that have heretofore been made regarding the ventilation of the hall, they find the views of the most eminent men widely differing. First, as to any necessity for further ventilation; and second, should there be any need of improvement in this respect, how it could best be secured. It seemed to your committee that much of this wide difference of opinion was due to the entire want of positive facts, such as: First. How much fresh air does really enter the hall? Second. How much of the air flowing into the hall comes from the corridors, galleries, smoking-rooms, &c.? Third. Is there a fair and even distribution of the fresh air (if there is any) over the entire floor of the House, or does it all flow through one portion and leave the other portion stagnant and foul?

With the hope of eliciting some more definite information in regard to these points, your committee determined to call in the assistance of some professional men who had devoted much time to this subject. They first called upon General Herman Haupt, an engineer distinguished not less for his scientific attainments than for sound judgment and long experience.

General Haupt graduated at West Point in 1835; he has been favorably known to the chairman of the committee for more than twenty years, as chief engineer and general superintendent of the Pennsylvania Railroad. For several years he was professor of mathematics, civil engineering, and architecture in Pennsylvania College.

The systems of ventilation as applicable to mines and tunnels also received at his hands a thorough experimental investigation, and results of the highest practical importance were elicited.

For these reasons the committee have considered the opinions of General Haupt as eminently worthy of confidence, even in opposition to the distinguished names that have been appended to previous reports.

The report of General Haupt is appended to this report.

The committee also called on Mr. Lewis W. Leeds, a gentleman who has devoted his attention exclusively to the subject of ventilation for many years past; was consulting engineer of ventilation for the Quartermaster General and Surgeon General during the war, in which service he gave the plans and directions for the ventilation of most of the Government hospitals, the practical results of which have been spoken of in the highest terms by all the medical men and other officers acquainted with the operations thereof.

The system of ventilation adopted for these hospitals also received the highest commendation from the committee on sanitary arrangements at the late Paris Exposition.

Mr. Leeds is at present consulting engineer of the Treasury Department, and has arranged the ventilation for the various new buildings under the charge of that Department. His report, with a number of diagrams, giving a record of a large number of experiments, and giving also a summary of the results as indicated by those experiments, is also appended to this report.

Mr. Leeds's report gives the record of twenty-six experiments, tried on the 5th instant, for the purpose of determining the direction of the perpendicular currents in the loft over the hall of Representatives. These show that the air from the loft is falling down into the hall all around the northeast and south sides of the room; it rises in the west.

Twelve different experiments show the temperature on the afternoon of the 5th to range from 44° to 48° around the exterior, and only 56° on the glass ceiling immediately over the center of the room. At 9 o'clock on the morning of the 7th, the thermometer was 38° in the loft.

Fifteen experiments tried on the morning of the 6th show these cold currents from the loft to sweep down on the outside of the galleries, carrying with them all the air contaminated by the crowds in these galleries, and pouring it over into the floor of the House; this occurs on the northeast and south sides of the House, rising on the west.

There was a strong current found to be setting *in* to the House from every external door both on the floor and in the galleries. Thus it will be seen that instead of the hall of Representatives being overflowed with fresh external air, and, as we have been so often told, with 40,000 or 60,000 cubic feet per minute, the truth is, the floor of the House, where the members sit, receives the washings from the foul corridors, galleries, loft, &c., and is really the foulest place in the whole building.

There is a very small amount of air, indeed, coming in through the registers on the floor of the House; but this, by some, may be considered an advantage rather than otherwise, as many of them are so choked up with tobacco spittle and sweepings of the floor as to render the air rising from them very disagreeable.

Your committee have tried a number of these experiments with Mr. Leeds and find them substantially correct.

It is very evident from these experiments that the original intention of the designers must have been so mutilated by subsequent alteration as to entirely defeat the object desired to be gained, and that there is now a necessity for some decided change.

General Haupt enters into an elaborate argument to show that the carbonic acid and other impurities from the lungs and skin fall to the floor, and consequently provision should be made for the removal of the foul air from that point. He proposes leaving the entrance for the heated air at the floors as at present arranged.

Mr. Leeds quite agrees with General Haupt that the carbonic acid from the lungs falls to the floor in a still room with a temperature of 70°, and that an excess would be found there, especially where all the air enters warmer than the required temperature of the room. He thinks there should be openings for the escape of the foul air from numerous points over the floor.

Mr. Leeds says, however, that the whole system of heating *exclusively* by circulating warmed air is wrong, and that no building can ever be made comfortable and satisfactory in that way; that where all the air is heated hotter than is required for breathing, it produces languor and debility similar to what is felt of a hot, close summer day. He says that it is absolutely necessary that there should be a considerable amount of direct radiation, and proposes that there should be several good old-fashioned wood fires, and perhaps some steam radiators placed in some portions of the room; or, what would answer equally well, to have the sides of the walls heated to about the temperature of our bodies, or a little warmer, so as to be radiating heat to us instead of robbing us of it.

Mr Clark, the present Architect, quite agrees in this opinion, but thinks it would be better to have the fires in the cloak-rooms. He also says he thinks the present floor should be taken up, and either the whole space under the floor be used as a general hot-air chamber, or that there should be a different adjustment of the flues, as since the completion of the building one-half of the registers have been removed by parties not connected with or familiar with the original construction of the building; and he thinks the original construction of the flues has been materially interfered with, as it is now difficult to heat the side farthest from the entrance of the warmer air to the same height by several degrees as that nearest the entrance thereof.

It must be very evident to every one, from the resnlts given of the experiments tried, that when the gas is lighted much of the foul air and products of combustion must descend into the hall. This ought to be prevented.

Your committee believe, as expressed by Mr. Leeds, that it is essential that the direct rays of the sun should shine into every occupied room to preserve it in a pure and wholesome condition. And they believe it quite possible that some plan might be devised by which this desirable object could be accomplished at small expense and without materially changing the present construction of the building.

Your committee would recommend that a competent person should be employed to

make such further examinations and experiments as may be necessary to determine the conditions of the ventilation under the various changes of wind and temperature, and that he make a report, with such plans as may be necessary for illustrating these suggestions as to the best means of improving the ventilation and the heating and lighting.

To the Hon. John Covode, Chairman of Committee on Ventilation :

An examination of the ventilation and heating of the hall of Representatives at the Capitol has fully convinced me that very serious defects do actually exist in the present systems.

But I find, after a careful examination of the elaborate reports of Professor Henry, Dr. Wetherill, Thomas U. Walter, and others, that I am obliged to differ with these gentlemen as to the best means of ventilating this building.

In thus differing in opinion with such distinguished gentlemen, I shall feel it my duty to express fully the grounds upon which I base that opinion.

FUNDAMENTAL PRINCIPLES OF VENTILATION.

The plans proposed for the ventilation of the hall are based on two simple propositions :

1. Heated air is relatively lighter than colder air, and will continue to ascend and the cold air to descend so long as they are free to move.

2. More or less than a given quantity of air, practically considered, cannot occupy an apartment, and air cannot be introduced unless an equal quantity be withdrawn, or withdrawn unless an equal quantity be introduced.

These two simple and self-evident propositions will explain nearly all the phenomena observable in ventilation.

PHENOMENA OF VENTILATION.

If heated air is introduced into an apartment containing air at a lower temperature, through registers at the floors, it rises rapidly to the ceiling; and if there are openings at the ceiling it escapes without, except in a very slight degree, mixing with the air in the apartment. The air that passes off in this manner is absolutely lost and the heat imparted to it wasted. It does not remove the vitiated air contained in the lower part of the apartment; it does not form with it a homogeneous mixture, and does not communicate to it more than a small portion of its heat. But if, instead of the escape openings at the ceiling, they are placed at the floor, the phenomena observed will be widely different. The heated air will, as before, rise to the ceiling, but instead of escaping will press the colder air downward toward the exit ducts and fill the apartment with pure, warm air; the air vitiated by breathing will at once sink below the level of the mouth and in a few seconds will be carried off, no accumulation of foul air being possible. In these few words the whole theory of ventilation is in a general way presented; it only remains to make an application to the case under consideration.

QUANTITY OF AIR REQUIRED.

In the able report of Dr. Wetherill (Ex. Doc. No. 100, 39th Congress) various opinions are given as to the amount of fresh air necessary to render the products of transpiration and respiration innocuous. These estimates, made by distinguished observers, vary from 2 to 50 cubic feet per man per minute.

These estimates are generally made upon the hypothesis that the fresh air introduced into an apartment mixes uniformly and homogeneously with the vitiated air and dilutes it to an extent sufficient to render it innocuous; but if, instead of mixing with the air of the apartment, *the warm, pure air* should RISE to the ceiling and escape, all conclusions based on the hypothesis of homogeneous mixture would be fallacious; and this fallacy, it appears to your committee, pervades the whole of the very able scientific reports that have been heretofore submitted.

The House of Representatives has a capacity of 465,372 cubic feet and is supplied with 60,000 cubic feet of fresh air per minute, which Dr. Wetherill assumes will change the whole air every seven minutes and furnish to each of a thousand persons 60 cubic feet per minute.

If the whole air were changed every seven minutes, or even once in an hour, the ventilation would be ample, whereas it is notoriously defective. It is obvious, therefore, that nearly all of the 60,000 cubic feet per minute must on the present system escape without performing its intended office in purifying the air.

If air that has once been respired could be immediately removed without being a second time taken into the lungs, it is obvious that so far as respiration is concerned

no more air need be introduced into an apartment in a given time than can be breathed. This amount is easily calculated.

At a temperature of from 65° to 70° Fahrenheit the following average results are given by Dr. Wetherill, for the respiration of an adult:

Number of respirations per minute	20
Cubic inches of air inhaled at each respiration	20
Cubic inches per minute	400

The carbonic acid exhaled is stated to be 15 cubic inches per minute, and the surrounding air vitiated is 2½ cubic feet per minute.

Four hundred cubic inches is less than one-fourth of a cubic foot, and this is all that can be taken into the lungs per minute. It would seem reasonable to suppose that if this small quantity could be removed at once, so that no portion of it could be breathed a second time, no greater amount of air for respiration could be required. Certainly it would seem that the removal of the 2½ cubic feet vitiated by respiration would be an ample allowance. What judgment, then, should be pronounced upon the present system, which with 60 cubic feet per man per minute fails to remove the vitiated air?

The quantity of air introduced is twenty times as great as the quantity that could be vitiated by respiration, provided there was a homogeneous mixture. The facts which are daily observed prove that such homogeneous mixture does not exist under the present system.

If nineteen-twentieths of the heated air which enters the apartment escapes without being utilized, it follows that nearly all the fuel consumed in heating it has been wasted.

POSITION OCCUPIED BY VITIATED AIR.

In the process of respiration 15 cubic inches of carbonic acid per man per minute are ejected from the lungs. This gas in course of time would diffuse itself throughout the apartment, but it is well known that its density is so great that it can be poured from one vessel into another, or if poured into an inclined trough it will flow downward, extinguishing successively a row of lights. The specific gravity of this gas is 1.52, or 52 per cent. heavier than air. Its tendency would therefore be when exhaled to sink below the level of the mouth, and occupy the lower portions of an apartment near the floor; but it has been supposed that the elevated temperature at which it is projected from the lungs causes this gas to rise and escape at the roof. The fallacy of such an opinion can be readily proved.

Even if the temperature at which carbonic acid escapes from the lungs should be so elevated as to render it momentarily specifically lighter than the surrounding air, it would soon part with the excess of heat and then seek the level due to its superior density; but, in fact, under the condition of things which actually exists, there is only about 20° difference in temperature between the air when first expelled from the lungs and that of the apartment, as air increases in volume $\frac{1}{460}$ of its bulk for each degree of Fahrenheit. The effect of increasing the temperature 20° would be to reduce the specific gravity less than 10 per cent., and the carbonic acid upon leaving the lungs would still be 40 per cent. heavier than the air of the apartment. It would seem impossible for this dense gas to rise to the ceiling and escape at that level without a violation of the laws of pneumatics, and yet the projectors of the present system of ventilation made no provision whatever for its escape at the level of the floor, at which level alone it is possible effectually to remove it. Mr. Clark, the present Architect, seems to have appreciated the necessity of doing something to remove the carbonic acid at the level of the floor, and he provided an 8-inch tin pipe connecting with one of the registers, but an exit duct fifty times the area of the present openings in the register would not be sufficient, and the inlet and exit ducts should allow of the passage of nearly equal volumes.

DEFECTS OF PRESENT SYSTEM.

The defects of the present system of ventilation are apparent from the preceding considerations. Although 60,000 cubic feet of heated air per minute are forced into the hall through registers in the floor, nearly the whole volume rises rapidly to the ceiling and escapes through openings provided for it without carrying with it the carbonic acid and other impurities, and this evil is greatly aggravated by the fact that not only the air vitiated by the members, but also that from the galleries, often crowded to excess, seeks the lowest level in the hall, to the great injury and discomfort of all whose seats are near the floor.

REMEDY FOR EVILS.

The remedy is simple; it consists in an application of the principles contained in the two propositions which were enunciated at the commencement of this report: Close

the openings at the ceiling, and make others of area equal to the inlet registers at the floor and around the galleries. The exit ducts should communicate with flues in which a current may be maintained by means now in use; but it would, in my opinion, be greatly intensified by throwing the exhaust steam from the engine or boilers in intermittent jets into this flue, instead of allowing it, as at present, to escape without being utilized.

PHENOMENA OF VENTILATION UNDER THE PROPOSED SYSTEM.

The heated air entering the hall through the registers would rise at once to the ceiling; unable to escape, it would accumulate and press downward the air previously in the apartment, until in seven minutes the whole of the air would be changed, the dense and foul air being carried off at the level toward which it naturally flows, and at which alone it can be removed. This operation is greatly facilitated by the large exit ducts connected with the flues. It will be perceived that, under this system, the tendency of the pure air is first upward, in currents, and then slowly downward. The exhaled gases sink at once below the level of the mouth, reach the floor, and are carried off. From a height of four feet above the floor they would descend and be removed in less than a minute, and it is probable that less than one-fourth of the fuel now consumed would maintain a proper temperature, as a much larger portion would be utilized.

The vitiated air from the galleries should be drawn off by flues inside the balustrade, and at the lowest level. No fears need be entertained that any considerable portion of foul air would be projected over the balustrade and into the body of the hall. All that did enter the hall in this way would be drawn off through exit openings on a level with the floor below the galleries, and there should also be a very large exit opening in the center at the lowest level of the floor in front of the Speaker's desk. As the gallery is supported by an 18-inch brick wall, there is no difficulty in making these alterations, and the best manner of doing it can be readily determined by the intelligent Architect of the Capitol. The committee have not entered upon the details; the principles involved seemed to them to be much more worthy of their careful consideration.

MOISTURE.

I would suggest, as the most simple and practical mode of moistening the air in winter, that a jet of steam from the exhaust-pipe of the engine be thrown among the heating coils, the amount of which could be regulated at pleasure, and would help to economize fuel. I also concur with Mr. Clark, the Architect of the Capitol, in the opinion that, for summer ventilation, the air should be cooled and moistened by being drawn through the spray of fountains and carried over the surface of water basins at the bottom of the inlet ducts.

I also unite with Mr. Clark in recommending, in strong terms, the importance of having all the arrangements for heating and ventilation under the charge of the engineer or some other responsible and intelligent person, who, by means of suitable thermometers and hygrometers, should ascertain the temperature and the hygrometric condition of the air, and maintain both at such uniform standard as may be prescribed.

EFFECTS OF COMBUSTION OF GAS.

It is asserted in Dr. Wetherill's report that each flame consumes as much oxygen and gives out as much carbonic acid as five human beings. This is an additional and strong argument in favor of the proposed change in the mode of ventilation. As the gas jets above the ceiling are separated from the hall by intervening glass, the carbonic acid can be effectually prevented from entering the hall by closing the openings at the ceiling.

OBJECTIONS CONSIDERED.

It has been asserted that downward ventilation has been tried, and has not proved successful. No reliance can be placed upon a statement of this kind unless the circumstances and conditions under which the trial was made could be ascertained. Success or failure often depends on the manner of doing an act. So far as the report of Dr. Wetherill gives facts, the evidence is in favor of downward ventilation. In the observations of General Morin, page 65, it is stated that a ventilation of 14⅓ cubic feet per man per minute, *principally downward*, left no perceptible odor in a lecture-room, while the *upward ventilation* of the halls of Congress, with 60 cubic feet per minute, is notoriously defective.

On page 69 is found a paragraph on "the direction the products of respiration take after leaving the body," in which it is attempted to prove that the direction is upward. The evidence in support of this position is that when the author of the report smoked a pipe at the Smithsonian Institute the smoke ascended. But the objection to this experiment is that tobacco smoke is not one of the ordinary products of respiration, certainly not in the halls of Congress. The experiment does not prove that the gray smoke which was seen to rise was carbonic acid; the experimenter does not state in

what direction were the ventilating currents in the apartment, or how produced; and there was nothing in the experiment to prove that, with a gentle downward ventilation, the smoke would not have moved downward, instead of upward. In fact, it proved nothing at all in reference to the direction of the products of respiration.

In contradistinction to such crude experiments is the fact that a system of downward ventilation has quite recently been introduced into the Pennsylvania Hospital, at Philadelphia, with perfect success. It was also very extensively introduced into the Government hospitals during our late war, and proved highly satisfactory. The open fireplace, too, is a very familiar illustration of the value and success of lower ventilation.

In conclusion, I would strongly urge the adoption of this system of ventilation, and recommend that the Architect be directed to prepare plans at once, suggesting the most convenient method of executing the work, to be submitted to Congress.

Truly yours,

HERMAN HAUPT.

To the Hon. John Covode, Chairman of Committee on Ventilation of the House of Representatives:

I have read with care and much interest the report of General Herman Haupt on the ventilation of the House of Representatives.

I quite agree with him in his conclusions both as to theory and the necessity for putting in practice a system of exhaust for ventilation from the floor of the House.

Very extensive practice and close observation for many years past have fully convinced me that the human breath, which is the great source of contamination, in an occupied room tends first toward the floor in a still room of 70°, and that there is a probability in a closely occupied room that there will be quite an excess in the accumulation there.

This applies especially to rooms warmed exclusively by hot air.

The contrary opinion—that is, the assumption that the breath and impurities exhaled from the body rise to the ceiling and accumulate there, was advocated strongly in the ventilation of the English houses of Parliament. And as some two or three millions of dollars were spent, I believe, in endeavoring to heat and ventilate that building comfortably, and as the proceedings in regard thereto were spread over the world to an extent probably one hundred times greater than any previous publication or action in regard to the ventilation of any public building, that theory of ventilation became strongly impressed upon the public mind as being the correct one.

I consider that idea erroneous; hence all theories of ventilation based upon it are consequently wrong.

But we must notice this applies to rooms warmed exclusively by heated air. We must not fall into the error the little boy did who, receiving a good thick overcoat on a right cold day, found it exceedingly comfortable, and being so thoroughly convinced in his own mind of its great value, insisted on wearing it warm days too.

In the majority of our rooms the excess of the air entering (which we must of course assume to be the pure air) does not enter warmer than the contained air one-half of the time, and probably not more than one-quarter of the time.

It ought *never* so to enter. This whole theory of warming rooms exclusively by hot air is entirely wrong, and the discomfort experienced in the present halls of Congress is probably as much owing to the want of some direct radiation in the rooms as to any excess of carbonic acid present.

I have given much attention to this subject within the last year, and my observations fully confirm the opinion that no building in which all the air for breathing is heated hotter than the required temperature of the room (no matter how the air is warmed, whether by steam, hot water, or otherwise) can ever be made entirely satisfactory.

When the air breathed is nearly of the same temperature of the body it loses its invigorating influence; it produces languor and debility.

We all know the exhilarating effect of a cool bracing air of a clear, bright sunshiny day. The direct radiation from the sun is very powerful. A thermometer protected from the influence of the wind and laid in the sun of a clear, bright day in winter, with the air below the freezing point, will rise to near 200°. This is the condition most favorable to active exercise, bodily or mentally, and must be approached in our artificial arrangements before real comfort can be secured.

Any member can easily satisfy himself upon this point by a few days' observation of the effect produced upon his own person while in the halls of Congress, which are warmed exclusively by heated air; and comparing that with the effect produced in a room with an open fire, (if he should be so unfortunate as to be in a room heated by hot air at home, as well as at the Capitol, I pity him,) he will soon find that five hours' labor, especially mental, will be more exhausting in the former than seven hours in the latter room, all other conditions being equal.

He will also soon notice that in the room with the open fire his head will be clear and his thoughts flow freely, while in the room heated by hot air his head will be full and oppressed, his thoughts will become confused and clouded, and to perform a certain large amount of work becomes very fatiguing both to body and mind.

I consider it absolutely essential, therefore, that some modification should be made in the manner of heating the halls of Congress.

Care should be taken, however, not to rush to the other extreme and get too much direct radiation.

A room heated exclusively in that manner, with all the fresh air entering of the temperature of the external atmosphere, causes cold unpleasant draughts which can and ought to be avoided.

The decided preference given of late years to heating exclusively by direct radiation, over heating by circulating warmed air, shows that the former with all its objections is preferable to the latter.

The combination of the two, however, produces the most satisfactory results.

The best possible manner of applying these principles would require considerable thought and a careful examination of the building.

The open fire is one of the best sources of radiant heat; it more nearly imitates that from the sun than any other in common use.

Some persons might object to having open fires in the hall of Representatives, but I don't know why it should be so objectionable. Direct radiation from steam-pipes would be much less trouble, and would be preferred, no doubt, on many accounts, for producing the greater part of the radiant heat.

Another very serious objection to heating exclusively by warmed air is that precisely the same temperature is scarcely agreeable to two persons in a hundred, and even the same person wants a constantly varying temperature according to the ever-changing conditions of his system.

It is of course exceedingly difficult, and perhaps entirely impossible, to fully meet all these varying wants, but it would not be difficult to come much nearer to it than at present.

It might be possible for steam-pipes to be arranged under the floor and covered by soapstone foot-stools, so that each member could regulate the heat at his own desk at pleasure; but this might not be of sufficient importance to make it advisable to have it put in practice.

Now when the manner of heating is changed it may affect the arrangements for ventilation. One thing, however—the importance in regard to the location of the inlets and outlets of the circulating air diminishes as the proportion of the heat derived from direct radiation increases.

I believe it would be at all times and under all circumstances very desirable to have a large amount of the air drawn from the floor, as nearly as possible from under or near each member's seat, and also from under the seats of all the benches in the galleries. But to know how and when and how much to draw from the ceiling would be a much more difficult question to decide.

The openings at or near the ceiling require to be closed and opened according to the varrying conditions of the room, and it can only be ascertained how they can be best regulated by experience.

That there should be such openings we all know from our every-day experience of the necessity for opening doors or lowering *external* windows, (where we are so favored as to have that luxury,) to relieve the upper part of the room when it gets too warm.

I think the present arrangements for introducing the air very objectionable. If there were a considerable amount of heat furnished by direct radiation, so that the inflowing air could be several degrees below the required temperature of the room, it would have a delightful refreshing effect to have it fall in gentle currents from the ceiling, and this would cause the least possible disturbance of the atmosphere, which is very essential in producing the best acoustic effect.

We all know if our feet and backs are kept perfectly warm and comfortable we are all right. We can then bear a large amount of cool refreshing air in our faces and on our heads.

To successfully heat and ventilate a large complicated building it is of primary importance that you should have a thoroughly comprehensive plan that shall include, not only the whole building, but all its surroundings.

Heat applied within any building causes movements of the air with more or less force, according to the difference of temperature of the external and internal atmosphere. The external wind is a source of considerable power. These two forces, if properly applied, are sufficient to ventilate an ordinary building nearly every day in the year; there may be a few days, however, when the external air is almost stagnant and it is too warm to have heat in the house; it then becomes necessary to resort to some artificial power for the movement of the air. This can be done by the application of mechanical means, as at the halls of Congress at present, or by the more simple and direct application of heat to exhaust-flues.

But the important matter is in the application of this power to make it conform to and coöperate with the natural forces and merely assist their action, or otherwise make it of sufficient power to entirely overcome all these natural forces.

If much care is not exercised in the adjustment of these forces, one will just counterbalance the other, and stagnation is the result. This, I think, is frequently the case in the Capitol building.

I have never made any examination to ascertain the fact, but it seems to me probable that the air entering the hall becomes foul in passing through it and rises into the space under the roof and there becomes cool, and much of it becoming mixed with the air from the burning gas, tumbles back into the room much fouler, if possible, than it went out. This reminds one of pumping little jets of pure water in all over the bottom of a muddy reservoir, by which the whole mass is kept in a constant roily, muddy condition.

There seems to be an entire unanimity among all parties as to the necessity for additional moisture. This I think of much importance.

I however doubt the propriety of allowing the steam to be discharged directly into the fresh-air channels. There is often an unpleasant smell from escaping steam, and more frequently from the air driven from steam-pipes as the steam enters. This could be tried, however, very easily, and it might not be found objectionable.

Although not directly connected with the subject of ventilation, yet I would take the liberty of suggesting that I think there is a deficiency of sunlight in the hall of Representatives. The sun's rays are the great source of purification, the great natural disinfectant, as well as the great moving power in the growth and development of all animal and vegetable life. We find cretinism and imbecility to predominate greatly on the shady sides of the mountains. In the Russian barracks it was found that sickness and mortality were much greater on the shady side than on the sunny side, even of the same large room.

The great value of an abundant sunlight was most fully demonstrated throughout our own very extended system of barracks and hospitals occupied during our late war.

I would by no means intimate that I believe the ingenuity of man can never produce these chemical life-giving influences the same as he has already produced light almost equal, for his own limited purposes, to the great source itself. And it was certainly very creditable in the original projector of the buildings' to endeavor to be as independent of all external influences as possible, and to rely as much as he well could on man's own ingenuity and resources.

But as the chemist or philosopher has not yet learned to make so much as a clover-leaf or a caterpillar, would it not be well for the present to go back to the old-fashioned plan and use a little more sunlight for the purification and disinfection of the rooms under consideration, while the chemists and philosophers are perfecting their plans, especially as sunlight can still be procured quite cheap, and is one of the few comforts of life that have not been doubled or trebled in price since the completion of those rooms. I think if a little ingenuity were exercised upon it there would be but little alteration required and not much expense incurred in introducing sufficient to produce a very perceptible influence.

As this building is entirely different from any other building in the world, and the knowledge in regard to the subject of ventilation is still so limited, it would seem to me to be wise on the part of Congress to employ the best talent and practical experience the country affords, to make a thorough examination and such experiments as they might require for the full illustration of the subject, and have them report in full the present condition of the ventilation, heating, and lighting, and such suggestions as they might have to make for the improvement thereof.

I believe such information could thus be procured as would enable Congress to act with much more confidence, and would produce results much more satisfactory than to act upon any information it now possesses.

I am, with much respect, thy friend,

LEWIS W. LEEDS,
Consulting Engineer of Ventilation and Heating,
for United States Treasury Department, &c.

WASHINGTON, 1*st Month* 13, 1868.

Additional report.

To the Hon. JOHN COVODE,
Chairman of Committee on Ventilation of House of Representatives:

Since making the foregoing report I have made a large number of experiments to determine the temperature and direction of the currents in various parts of the building.

I commenced at half-past 12 on the 5th, and tried sixty-three experiments in the loft over the House, in various parts, to determine the directions of the currents there, a memorandum of which I inclose, marked 1, 2, and 3.

I also took the temperature in twelve different places in the loft, a memorandum of which is also inclosed, marked 4.

On the morning of the 6th I commenced an examination of the position of the registers on the floor of the House, at ten minutes of 10 a. m., and also took the direction of the currents at top and bottom of all the doors opening into the hall; also, the direction of the currents in twenty-seven other places in various parts of the hall; also, the temperatures at seven different points around the side of the hall. Memorandums of these experiments are also inclosed, marked 5, 6.

On the morning of the 7th I went to the House at a quarter past 7 a. m., for the purpose of ascertaining the temperatures in the loft over the hall; but as the workmen had the keys, and did not get them until half-past 8, I could not test the temperatures until 9, the sun being then two hours high; clear, bright day. The results are inclosed, as well as the temperatures in the galleries and around the sides of the hall, as observed at the same time.

I had no expectation of finding the supposed conditions noticed in the preceding report (which were based upon mere theory) so nearly correct, and capable of being so clearly and fully proven by these experiments.

It will be noticed by the experiments on the 5th that the temperature in the loft was 44° and 48°, at 3 p. m.; on the 7th, at 9 a. m., it was 38° on the east end, and 45° on the west end.

The experiments of the 5th show that there was a strong descending current all around the exterior of the hall, excepting the west end, from the loft into the hall, and the experiments of the 6th show this current carried over the galleries and tumbled down onto the floor of the House. The other experiments show that there is a strong current rushing in from the corridors, through all the doors, without exception, both on the floor and on the galleries.

Now, when we consider the corridors are the principal ventilators for the engine-room, restaurant, water-closets, &c., &c., and then add to this most of the foul air from the galleries, it will be seen that the floor of the House is the final receptacle of all the washing of the building, and is the foulest pit of the whole.

It will also be observed that the current is from the east side towards the west side, and there rises to the attic, and much of it from there flows across to the foul-air shaft; consequently about the center of the west side is the place where the air leaves the occupied portions of the building, and probably that is, therefore, about the foulest place in the whole building.

An examination of the condition of any of the registers will convince any member as to how much relief he can expect from them. The accompanying diagram, showing how many of the registers were open and how many closed, is merely an approximation, as so many of them were so choked up with tobacco spit, sweepings of the floor, and other trash, and there was such a foul smell coming from them, that it was difficult to determine whether to consider them closed or open.

I should think it would be well to try the experiment of reversing the fan and drawing the air *from* the floor instead of *forcing it in*; but with the present arrangements for heating and supplying fresh (?) air, it would probably merely aggravate the difficulties.

The little positive knowledge thus gained by the few experiments already tried more fully convinces me of the necessity for and value of a series of experiments, extending over a month or six weeks, and taken under all conditions of wind and weather, and when the house is crowded and when but few are there.

An entirely different condition of things will probably be found to exist when the whole lighting apparatus is in full blast.

Very respectfully,

LEWIS W. LEEDS.

WASHINGTON, D. C., *2d month* 8, 1868.

SMITHSONIAN INSTITUTION,
Washington, January 17, 1871.

DEAR SIR: * * * * * *

I have examined the glass as to translucency, and find that the figured pattern absorbs about one-half of the light, while the plain, varnished specimen absorbs only about one-fourth.

I have the honor to be, very respectfully and truly, your obedient servant,

JOSEPH HENRY,
Secretary Smithsonian Institution.

Hon. THOMAS A. JENCKES,
United States House of Representatives.

110 BROADWAY, NEW YORK, *5th month* 3, 1870.

To the Joint Committee on Ventilation :

GENTLEMEN : In experimenting with a view to the improvement of the ventilation of the halls of Congress, I think it would be very desirable to ascertain the general movement of current in the whole building as a mass, and see what are the great natural causes of motion or agitation.

I think the central dome will be found to exert a great influence, extending to both houses of Congress. Then to ascertain the more local causes of disturbance in various places, and to trace the currents to sources of contamination when such occur. Also, to note carefully the influence both of external temperature and the directions and force of external currents. Then to examine the artificial means of producing currents both by the fans and the heated shafts, and to measure carefully their relative value for moving the air in proportion to fuel consumed. These currents can be best measured and recorded by carefully-made anemometers.

It would be well, I think, to make a careful record of the hygrometric condition of the air, which could be done by one or two hygrodeits.

One of the greatest sources of annoyances, I think, is the variations of heat and cold from the lighting apparatus, and the exposure of the metal roof to the accumulation of snow, &c.

I think a careful record of the temperature of the space under the roof when the gas is lighted, and at other times, would be valuable.

Very respectfully submitted.

LEWIS W. LEEDS.

Report accompanying plans for the improvement of the ventilation and heating of the hall of Representatives, by Lewis W. Leeds, engineer of ventilation and heating, 110 *Broadway, New York.*

That, to warm a room by direct radiation, and supply it by cool, fresh, invigorating air for breathing, is necessary for health and comfort, is now so generally admitted that it scarcely needs any argument in its favor.

The great wonder now is, that so many very eminent engineers should have persevered so long directly in the face of continued failures in attempting to warm and ventilate large buildings by forcing in currents of overheated, debilitating air, at the same time allowing all the walls and solid objects in the room to be colder, and absorbing the animal heat—the very essence of life—from the inmates. The cause of these universal failures is well explained by the simple physiological fact that we give off twice the quantity of carbonic acid, or, in other words, that we live twice as fast, and can do double the amount of work, and need as much again food when we are breathing air from 10° to 20°, that we do when breathing air from 90° to 100°. This is well illustrated on any bright, clear day ; the warm rays of the sun, which are frequently of sufficient power to boil water, are very agreeable as they fall upon us while we are surrounded with and breathing the cold and invigorating air perhaps at 20° or 30° ; vigorous bodily or mental exercise is then much easier than on a sultry day in summer.

How entirely different are the conditions now existing in the house of Representatives. The air is taken in at the basement, down through the cellar ; from there forced up by the fan through an immense stack of rusty, dirty iron pipes, coated by many years' accumulation of particles of decaying animal and vegetable matter, roasted up afresh every day ; from thence driven through a labyrinth of uncleaned horizontal air-ducts, filled with the molding and decaying dirt of several years' accumulation ; and finally driven through the uncleaned spittoons arranged all over the floors of the house, issuing into the rooms at a temperature of 100° to 120°, a warm, filthy, disgusting mass for the members to breathe. I think it is time this was changed.

Not only does the application of direct radiation furnish a much more wholesome and agreeable atmospere, but it at once relieves us of much of that trouble about the proper circulation of the fresh and foul air that have so vexed the hot-air engineers. It enables us at once to dispense with those expensive nuisances, the fans. Most of the members no doubt have noticed the disagreeable smells and heat arising from the engine-rooms, and fans, and which fill the western stairways, especially on the side of the Senate. At times in the summer, when the doors are open and the wind from the south, this unpleasant odor and heat may be noticed on the east front—having filled the whole stairway, passed across the Senate chamber, and out the front. In summer this current adds several degrees of heat to the temperature of the upper rooms. By dispensing with the engines and fans a great gain would be at once effected, both in economy and comfort.

I know very well that many prominent engineers insist upon it that the fan is necessary to secure at all times the proper circulation of air. When dependence is placed

exclusively upon warming the whole building by currents of heated air, (which is al. wrong,) there may be some excuse for the use of the fan, but I think even then the heated shaft is more efficient. All question is avoided, however, as to the necessity for its use where we heat principally by direct radiation. The idea of heating by direct radiation is by no means a new one; it is much older than heating by hot-air currents.

But perfect success depends greatly upon the proper and skillful arrangement of the heating surfaces, in combination with the necessary supply of fresh air and the removal of foul, so arranged that a uniform movement of air shall be secured over the whole building without perceptible draughts.

Probably four-fifths, or not unlikely nine-tenths of all the air entering the building as now arranged comes in through the doors and windows; the other one-fifth or tenth being driven in by the fan, frequently at a high temperature, to counteract the cooling effect of that entering by the doors and windows. Now, by placing the heating surface directly under the external windows, that *really* becomes the very best place for the supply of fresh air. It enters then directly from the external atmosphere, thus avoiding the great objection to long, uncleaned air-ducts.

By leaving the heating surface exposed, we get the greatest direct radiation just where it is most needed—immediately under the cold window; the two extremes thus neutralizing each other. This arrangement was suggested by me, adopted by the Supervising Architect, and has been tested in the north wing of the Treasury, and with subsequent modifications in New York. It is found to work admirably. Those unpleasant cold draughts so commonly felt near windows are thus entirely prevented. The plans accompanying this report show where it is proposed to place the heating surface in the various stories.

I was surprised and very much pleased to find how readily an entire modification of the heating and ventilation could be effected without disturbing the general arrangement of the building in any important particular. It will be observed by reference to the plans that it is proposed to completely reverse the direction of the currents at the floor; and instead of the fresh (?) air entering through the uncleaned spittoons as at present, the foul air will be drawn off there. This change can be effected without at all interfering with the present arrangement of the supply by the fan—so that it may be reversed in fifteen minutes, and the fan can be used every alternate day until it is fully proved to be worse than useless.

It is proposed not to touch the present arrangement in any manner, but to leave the whole just as it is, to be used at any time to illustrate more strikingly the contrast. The old material would be of little value if removed.

SUPPLY OF FRESH AIR.

In previous reports much stress has been laid on the source of supply for the fresh air. Most of them contemplate conducting through underground passages of considerable length. I endeavor to avoid all underground air-ducts whenever possible, as the difficulty of keeping them sweet and pure is so great that it is seldom done in practice. Any damp place excluded from the direct disinfecting and purifying rays of the sun is liable to become mouldy, and this mould of such places is now considered to be the cause of miasmatic fevers.

When it is proposed to force the air over the entire building by fans from one or two points, this single supply may be of considerable importance; but with the heating surface distributed around the entire building as proposed by us, the difficulty is entirely overcome at once, and we admit the pure external air directly into the building without the least contamination.

And for the hall of Representatives we propose taking the pure air from the very top of the building—a higher point than proposed by any of the other parties. This fresh air will enter through the numerous perforations of the panels in the ceiling, and being *cooler* will fall gently diffused over the room; and as a large proportion of the heat will be derived from the direct radiation of the warmed walls, the effect will be very similar to that of a cool, bright day in spring or autumn.

Many persons suppose that a current of cold air on the head would be unbearable. This depends entirely on attending circumstances. I have frequently stood on the hot plates in the hold of a steamship, with my back to the hot boiler, and allowed a perfect torrent of very cold air to pour down upon me. The effect was delightful as long as my feet and back were kept thoroughly warm. But if you are surrounded by cold walls and a cold current strikes your back, especially between the shoulders, or makes the feet cold, that is very dangerous.

REMOVAL OF FOUL AIR.

With many of the projects for ventilation this seems to have been the primary object, but it is really secondary, the supply of the fresh air being of the first and greatest importance.

If a building is constantly overflowed with an abundance of cool, fresh, invigorating

air, and has an ample supply of heat from well-diffused heating surfaces around the exterior to prevent the inconvenience of cold draughts, there will be but little difficulty about the escape of the foul air.

It is better, however, and makes a more perfect arrangement, to provide for an ample and regular removal of foul air, sufficient to keep the rooms perfectly pure, even should all the windows and doors be closed for a long time continuously. By reference to the accompanying plans it will be seen that this is fully provided for.

In the first place, it is necessary to remove with care all offensive smells. With the present arrangement the heat, gases, and odors from the boiler and engine rooms are about the greatest nuisances in the building; then the heat and smell from the kitchen and restaurant in the cellar, as well as from the water-closets, permeate the whole building. All these would be carefully removed by the four large shafts connected with the smoke-stacks from the boilers. These are now doing very efficient service, but the odors from the boiler house, &c., ascend the main stairs, flow through the hall of Representatives across the attic down two of these flues to the bottom of the cellar again and up the other two and finally escape. Rather a circuitous route to make the foul air travel. Reminds one of the undertaker who carried the body of a person having died with the small-pox all through the town to show the people how careful he was in burying such. Instead of this we would propose, as shown on the accompanying plan, to open all four of these large flues directly from the cellar and engine-house, using three for the ventilation of the latter and one for the kitchen and water-closets. This will double the capacity of these flues, as the two now used for bringing the air down from the attic would be capped out above the roof, and make most efficient exhaust flues from the cellar and basement. The two on the eastern side would require a steam coil or furnace in each to increase the draught. The heat from the boilers causes an excellent draught in the others, as may be easily seen at any time on examination.

The capacity of these flues at 50 square feet area, with a velocity of 5 feet per second, would give a discharge of 15,000 cubic feet per minute, which would be about equal to the working capacity of the smaller fan.

Now, with this large exhaust from the cellar and basement, removing these offensive smells, one-half of the present difficulties would be removed. There would be much of the time a descending current on the main stairs, where there is now an ascending current.

The space behind the main stairs on the east front should be one-half used for a ventilating shaft from the cellar and basement at that end of the building, and the other half for an air-duct for forcing up cooled air for summer and for a hoist-way for ice, &c. The space behind the main stairs on the west, where the steam coils are, should be used as a ventilating shaft exclusively, for the discharge of foul air from the floor of the house. By shutting off all supply from below and opening an outlet above, as shown on the accompanying section, the whole current would be at once reversed; so that, instead of the current entering at that point, the foul air would be drawn off there, as it should be. This flue is 6 by 30, giving an area of 180, which, with a velocity of 4 feet per second, would discharge over 40,000 feet per minute. This in addition to the large amount that would be escaping from the ceiling at all times, and especially when the gas was lighted, would be double the quantity that would be generally required, and consequently must be throttled much of the time.

It is proposed to alter this main shaft in such a manner that it can be replaced in a short time, so that instead of its being an exhaust shaft it will be a supply shaft, just as at present. Where the fresh air supplied is colder than the temperature of the room, and the heat derived from direct radiation, a much less number of cubic feet answers for a healthful respiration; yet it will be seen we have a capacity for the discharge of air double the amount required under any circumstances whatever.

SUPPLY OF COLD AIR FOR SUMMER.

By removing the engines and fans, or allowing them to remain cold, one-half the trouble in this respect will be obviated, and by ceiling the space under the roof, as shown on the transverse section, also making a double ceiling over a large part of the main hall, will greatly improve the building in that respect. Also the thorough isolation and more complete ventilation of the lighting loft will relieve the main room of one very great trouble now existing, that is, the return of the air from the loft, loaded with the products of combustion and escaping gas, down over the galleries on to the floor of the House. By a series of experiments tried last year this was shown to be the constant action on three sides of the room.

It is believed that when these improvements are all made there will be but few days in the year when a forced ventilation (without the heating) would not be sufficient to keep the building comfortably cool.

The plans as submitted admit, however, of the most complete arrangement for cooling the air for ventilation. The cooling apparatus can be placed in the cellar near the

eastern end, and the cooled air driven up the shaft left for that purpose, as shown on the plan, or, perhaps better, the whole apparatus could be placed in the attic over the corridors and stairway, and if ice was used, it could be hoisted up the place shown for that purpose, or if water was used for cooling, it could be pumped up and used then.

DIRECT ADMISSION OF EXTERNAL AIR AND SUNSHINE TO THE HALL OF REPRESENTATIVES.

The opinion seems very prevalent that there is an absolute necessity for the admission of the external air directly into the hall, as well as the direct rays of the sun to give that freshness and vigor as well as purity to the contained atmosphere so desirable. There are, no doubt, good grounds for this opinion. There have been propositions for very considerable structural changes which would involve very great expense at the present high price of labor and material.

The suggestions we make, however, are very simple, not interfering in any way with the construction, and although not strictly architectural, perhaps, but as they are so insignificant and kept below the line of the balustrade they cannot be seen externally from any ordinary point of view. But in this very simple manner we let in a large amount of additional light, greatly needed on cloudy days, allow of the direct admission of an abundance of fresh air from the very top of the building, which is much more desirable than at any point near the ground, and, above all, allow of the admission of a very considerable amount of the direct rays of the sun.

SUMMARY.

If the suggestions herein contained are carried out according to the accompanying plans, the following advantages will be gained:

1. A cool, fresh, invigorating air over the whole building in place of the warm, overheated, debilitating stuff with which the building is now filled.
2. A gentle, well-diffused warmth from direct radiation, which is entirely different from and superior to the warmth derived from currents of heated air.
3. The feet and the backs of the occupants will be kept really warmer than their heads.
4. The hall of the House of Representatives will be overflowed with an abundance of pure external air with a much better light, and the admission of a considerable portion of the direct rays of the sun, never before admitted since its completion.
5. The whole apparatus for heating will be very nearly self-acting, as it is so thoroughly distributed on the external sides of the building no matter which way the air moves. North, south, east or west, or up or down, the warmth is nearly uniform, as currents of air do not affect radiant heat.

LEWIS W. LEEDS,
Engineer of Ventilation and Warming, 110 *Broadway, New York.*

3D MONTH, 16TH, 1869.

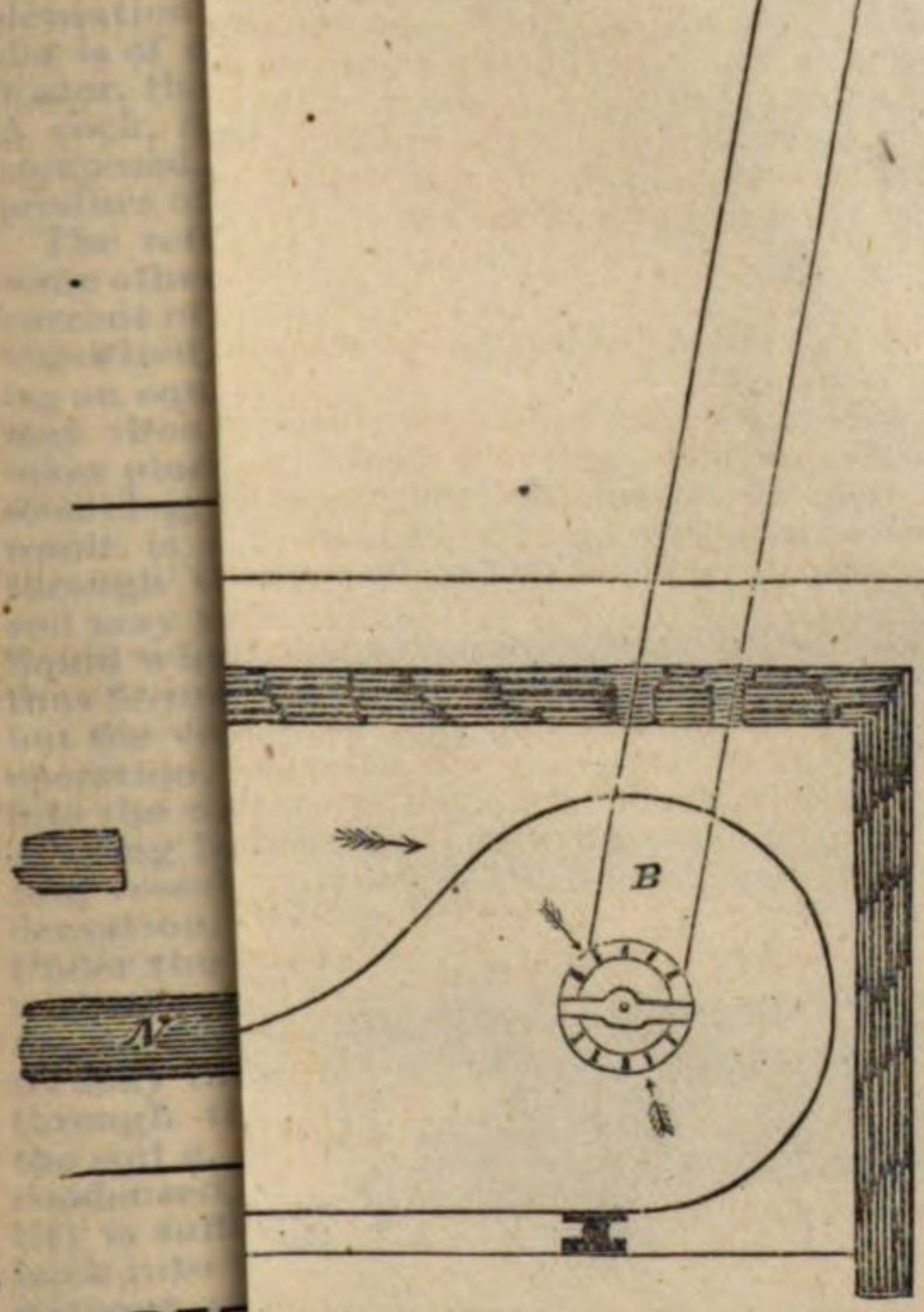
TELLIER'S REFRIGERATING OR AIR-COOLING MACHINE.

[To accompany drawing presented to Committee on Ventilation April 28th, 1870, by H. R. de La Reintrie, sole agent.]

Refrigeration produced by means of ice is necessarily imperfect and unsatisfactory. The action of the ice cannot be uniformly distributed throughout the room, but is felt more or less, according to the distance from the masses of ice. After a short time the ice in melting becomes so closely packed that the air ceases to circulate between the blocks, so that precisely as the season advances and the cooling action becomes more indispensable, the desired effect of the ice becomes less and less. Moreover, the atmosphere produced by this means is damp, moist, and heavy, and ill-adapted to the preservation of animal or vegetable matter. These inconveniences are all overcome by the machine which I am about to describe, the simple object of which is to produce cold air, and to drive it into the rooms to be refrigerated by means of a ventilator or fan. This machine presents four principal parts, viz:

I. A refrigerating cylinder, A.
II. A ventilator, B.
III. A compressing pump, C.
IV. A condenser, D.

The refrigerator A is a strong iron cylinder, closed at each end, *a*, *a*, *a*, *a*, within which are lodged a number of small tubes from one.half five-eights inch in diameter, part of which may be seen in *x*, *x*, *x*, *x*. All these tubes open freely into the atmosphere at both extremities of the cylinder. The latter is closed at each end by a metal disk, through which pass the extremities of the tubes *x*, *x*, *x*, *x*, so that whilst the interior of the latter is left perfectly free, the space circumscribed by the tube A



A. REF

s Mythelic Ether or Gas of Ammo-

B. VEN apparatus and cannot escape.

e air driven through the Refrigera-

C. CON d are drawn into the cylinder of

ted and driven into the Condenser:

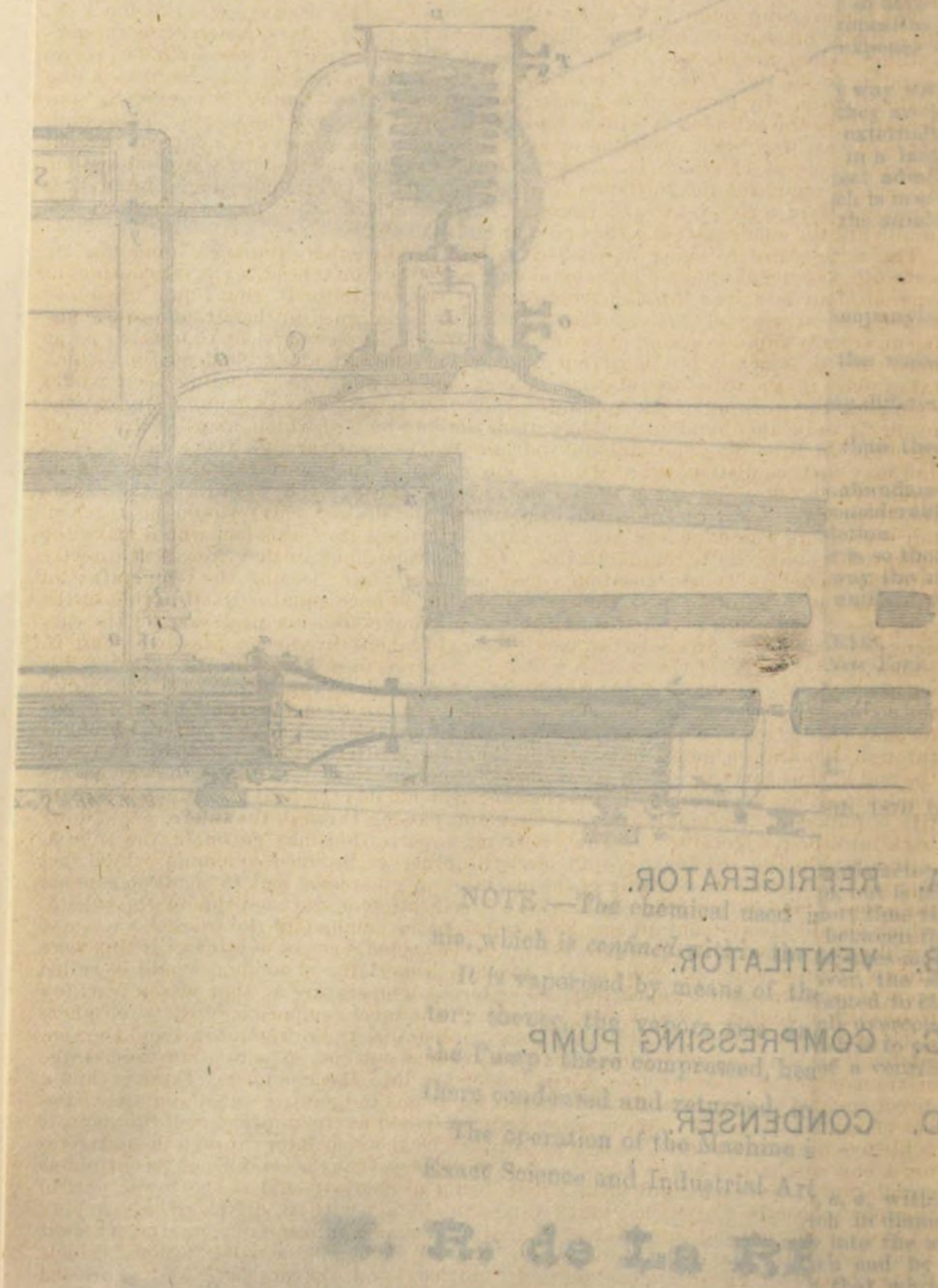
D. CON a liquid state, to the Refrigerator.

s *continuous*. It ranks to-day as an

.

EINTRIE,

Columbia, May 4, 1870.



and these disks forms, nevertheless, a strong and perfectly tight chamber. That this result may be the more perfectly obtained, a strong iron band, seen at each extremity, *a*, *a*, *a*, *a*, is welded on the cylinder, and thus strengthens the ends. The whole arrangement, being then carefully tinned and soldered, is heated and covered over with a coating of solder one-fourth to one-half inch thick, so that the whole forms one solid mass, without the possibility of any leak, as there are neither rivets, joints, nor nuts, save the two tubes of the cocks E and F, which are, themselves, set so as to form integral parts of the tube A.

I have nothing special to say of the ventilator B, which may be of any approved pattern.

The compressing pump C is worked by means of a belt passing over the block V. Its cylinder presents no other peculiarities, save that the valves, contrary to the prevailing custom, are placed: 1, the exhaust at the upper part of the cylinder, corresponding to the tube *f*; 2, the force valve, at the lower part of the same, corresponding to the tube *g*. By means of this arrangement, should any liquid be formed by condensation in the cylinder, it will be removed at every stroke of the piston. This cylinder is of cast iron, with an outer jacket, through which circulates a current of cold water, the object of which is to carry off the caloric produced by the compression. A cock, S, regulates the introduction of this water. The condensing column D is composed, 1, of a coil, G; 2, of a chamber containing a float, L, into which flows the product of the condensation. (See note at end.)

The refrigerator A, being now filled with methylic ether, liquefied ammonia, or some other analogous fluid, which completely surrounds the tubes *x*, *x*, *x*, *x*, if a continuous current of air be driven through these tubes by the ventilator B, that liquid is rapidly vaporized, carrying off with its vapors the caloric contained in the air, and thus causing an equally rapid lowering of its temperature. A degree very near to freezing point may thus be reached, but must not be passed. The abundant condensation which takes place in the tubes would then change *into ice*, and by obstructing them would soon clog the working of the apparatus. By merely getting to a point near 32°, the result is only an abundant condensation, the product of which may be drawn off through the tube M. The air, thus refrigerated, escapes through the conduits N N, and may then be distributed at will. I now return to the volatilization of the volatile liquid which takes place in A, the vapors escaping through the valve E. If the vapors thus formed escape freely into the atmosphere, the desired effect would be reached, but the vapors would be lost and the expense arising from this fact would make the operation, commercially, impracticable. On the other hand, if they were sent directly into the condenser D, condensation could not take place, because the temperature of A, being lower than that of D, the pressure would at once equalize itself to that of the cold vessel, and could not produce in D the maximum tension necessary for the condensation. Such is precisely the result brought about by the compression pump G. Under the influence of the motion which it receives from the belt, its cylinder fills with the vapors produced in A, which are compressed by the piston and forced into the condenser as soon as the pressure is sufficient to cause condensation. That the latter may take place in a constant manner a continuous current of cold water is brought through the tube *o*, going out through the tube *p*, after bathing the reservoir L and the coil *a*, thus carrying off all the caloric of condensation. As fast as the vapors are condensed, they are gathered in the chamber which holds the float L. When the quantity is sufficient, the liquid raises the float, and passing through the tube *o*, *o*, *o*, *o*, flows back into the refrigerator A. Thus constant vaporization may go on in the tube A, without reducing the level of the methylic ether or liquified ammonia, which fact secures the continuous working of the machine. A glass level may be made to connect the tubes E and F, and thus facilitate the verification of the condition of the tube A, which should always contain enough liquid to bathe completely the tubes *x*, *x x*, *x*, *x*, *x*.

I will now proceed to explain how the air, to be cooled, may be obtained. If this were drawn from the outer atmosphere, the machine, especially in summer, would be called upon to perform a tremendous task, the external temperature at that season reaching frequently as high as 90° and over. To avoid this inconvenience it is the atmosphere itself of the rooms which is drawn. To accomplish this, the refrigerator A and the ventilator B are both lodged within a chamber, open at one end, so as to allow the passage of the conduit N and the free admission of air into the chamber. There is thus a direct communication established between the rooms to be refrigerated and the chamber of the ventilator B. This opening being disposed at the upper part of the room, it is always the warmest air that is drawn, driven by the ventilator through the refrigerator A and discharged at the lower part of the rooms. Thus is established a continuous circulation of the same fluid mass, which, being discharged cold at the lower part of the rooms, absorbs the caloric which comes in contact with it, dilates, rises, carrying off this caloric, passing through the ventilating chamber into the refrigerator, where it again leaves off the caloric, and so on; the air being, in fact, but a mere vehicle for the heat which it alternately takes up and leaves off. Fears have been expressed that this constant circulation of the same air would not keep the atmosphere of the

rooms sufficiently pure. There need be no apprehension on that score. In the first place it is customary, whenever it is desired to keep a room cool, to keep it closed as tightly as possible; now to leave the air stationary or to cause it to circulate can make no possible difference. In cases where there is formation of carbonic acid gas, (as is the case in brewers' fermenting rooms,) it is perfectly easy to get rid of it, by mitigating the current with a certain proportion of fresh air, which will drive off a like quantity of vitiated air, and, in a given time, will completely renew the interior atmosphere. But this is not all; instead of being a cause of alteration, this circulation, on the contrary, produces a constant purification of the air. Under the influence of the absorption of the caloric, the hygrometic condition of the air is modified, and all the vapors it holds in suspense are condensed. This phenomenon leads to this consequence, that all the miasmas or impurities which might be in suspense in the air are carried off with this condensation. Thus the air is discharged purified, dried, and in the most favorable conditions for the absorption of such new vapors or miasmas as might be formed, which, by its continuous circulation, it will constantly carry off, leaving the interior atmosphere as pure and as cool as possible. The drawing, (sheet II,) shows the conduit N, as opening at the entrance of the cellar; it is hardly necessary to observe that this disposition, made necessary by the compulsory limits of a drawing, should not be carried out in practice, and that the cold air should be carried and discharged at the opposite extremity of the room, so that it may be compelled to pass through its entire extent before returning to the chamber of the ventilator; in this manner the desired effect is obtained in the most perfect manner.

H. R. DE LAREINTRIE,
Sole agent for the District of Columbia.

BALTIMORE, MD., *May* 4, 1870.

NOTE I.—The float L, at the base of the condensing coil, which is intended to regulate the flow of the liquid back into the cylinder, has been replaced by a patent spring cock, which effects the same object, whilst permitting at the same time to regulate exactly the pressure in the machine, and consequently to control perfectly its action.

NOTE II.—The lubricating cup, which appears on the compressing pump, and which is intended to lubricate the piston rod of the said pump, is so contrived as to act at the same time as a trap, to catch any vapors which might escape in that direction. As this is the only point where, from the peculiar construction of the machine, there could possibly be any leak, this contrivance effectually removes all such possibility.

Respectfully submitted.

H. R. DE LAREINTRIE,
Sole Agent for District of Columbia.

May 4, 1870.

I also refer the honorable Committee on Ventilation to Barnard's reports on the Paris Universal Exposition, chapter xii, pages 361 to 402, a valuable work.

LAREINTRIE.

OFFICE OF THE UNITED STATES (TELLIER)
ICE AND REFRIGERATING COMPANY,
61 *Broadway, New York, February* 16, 1871.

DEAR SIR: At the request of an agent for the District of Columbia, Mr. H. R. de La-Reintrie, of Baltimore, I beg to submit the following estimate of the expense of erecting and fitting up the Tellier refrigerating machines for the purpose of cooling the Houses of Congress. The object which it is proposed to accomplish is to reduce the temperature of the corridors surrounding the two halls some 20° below that of the outer atmosphere. These corridors, according to the figures obtained in the office of the architect of the Capitol, measure, in the aggregate, that is, both the upper and lower corridors, 184,019 cubic feet, or 6,818 cubic yards for the south wing, and 152,623 cubic feet, or 5,653 cubic yards, for the north wing, exclusive of the connecting corridors. The first step will be to isolate and protect as effectually as possible against the action of the outer atmosphere the parts to be so refrigerated. To that effect, partitions with double swinging doors must be erected at each end of the connecting corridors, and every door and window leading out from the corridors kept as securely closed as in winter. Communication, however, between the upper and lower corridors should be kept as free as possible in order to insure perfect circulation and thorough ventilation. The cold air coming from the machines will be discharged at the bottom of the lower corridors, where, mixing with the warm air, it will rise, passing into and through the upper ones to the ducts of aspiration which will be located in the latter, and at the fartherest possible point from the orifices of the discharge. Thus, there will always be maintained a gentle upward current which will constantly carry off whatever heated or vitiated air may rise from below, leaving the atmosphere as pure and as cool as pos-

sible. For it must not be forgotten that the process not only cools but purifies the air, and for this reason no apprehension need be felt on the score of the rooms being kept closed, as the atmosphere within will always be purer than that without, besides keeping out the dust, &c.

Apparatus will be required for each wing of sufficient capacity to discharge 10,000 cubic yards of cold air per hour at the temperature of 34° to 35° Fahrenheit. Were there no accretion of heat whatever into the corridors save that arising from natural radiation, this would maintain a temperature of 40° to 45° Fahrenheit; but in the present instance, with more or less caloric constantly pouring in from the floor and galleries of the Houses, and by the frequent opening of doors, 70° to 75° will be as much as may be expected, that being about the most comfortable temperature for the human frame, and such as usually prevails at Newport, Rhode Island, during the pleasantest weeks of the "season."

The total expense of applying and fitting these machines to both Houses of Congress I estimate as follows:

Refrigerating machines of the capacity named above, one for each wing, at $37,500	$75,000 00
Brick and woodwork, air conduits, &c., and to be executed according to our instructions, but under the direction of the Architect of the Capitol, if desired, for each wing $10,000	20,000 00
Contingencies	5,000 00
Total estimated outlay	100,000 00

These figures, save as to cost of machines, are mere estimates, and it is probable that the expenses covered by the second item will never reach that figure, nor is the last item likely to be called upon at all. A portion of the machinery will be brought from Europe. Should the Government see fit to remit the duties on same, the amounts thus remitted shall be deducted from the above figures.

The machines are to be located in the basement, and will each require a maximum motive-power of 25-horse. Each machine will also require a supply of water for purposes of condensation of 1,200 to 1,500 gallons of water per hour and will be provided with pumps of sufficient capacity to furnish the said supply; this water is in no wise injured by the process, its temperature being only raised some 4° or 5°, and may be conveyed anywhere to be used again for this or for other purposes. The machines complete will each weigh not to exceed 8 to 10 tons, and will occupy a space of about fifty feet in length by six feet in width; more, however, should there be a lack of height.

In making the appropriation to carry out the purposes of this estimate, I respectfully beg that one-third (33⅓ per cent.) of the first item, or amount required for the machines proper, be paid in advance upon the execution of a satisfactory contract.

All of which is respectfully submitted.

L. BOUVIER,
Acting President.

Hon. THOMAS A. JENCKES, M. C.,
Chairman Committee on Ventilation, Washington, D. C.

AGENCY OF THE TELLIER ICE AND REFRIGERATING COMPANY,
No. 34 *Post Office Avenue, Baltimore, February* 18, 1871.

DEAR SIR: Under date of yesterday Mr. L. Bouvier, now president of this company, informs me that on the 16th he mailed to your address the estimate of the cost of cooling the two wings of the Capitol building, in Washington, and which I trust you have already received.

At my request he has placed the estimate at the low figure of $100,000, that being one-third the amount proposed in the estimate of May 14, 1870, for cooling the two halls of Congress.

The machines will be constructed with the utmost care and in the very best style, will be highly finished and ornamented, with walnut casings, silver bands, &c., &c., so as to make them an object of admiration to the eye as well as to the mind. Of their efficacy and utility in the Capitol of the nation, I have no doubt whatever. We have put the price low, in consideration of the great benefits to accrue to us hereafter from their being thus prominently brought before the public.

Hoping the present estimate will meet the approbation of the committee, of which you are the distinguished chairman,

I am, sir, very respectfully, your obedient servant.

H. R. DE LAREINTRIE, *Agent.*

Hon. THOMAS A. JENCKES, M. C.,
Chairman Committee on Ventilation, Washington, D. C.

WASHINGTON, *February* 2, 1871.

DEAR SIR: At the suggestion of Mr. Jenckes I beg to state that we can, if desired, furnish you with a current of air from two of our machines, one for each House, at the temperature of 33 to 34° F., to be distributed or used as you may deem proper. The amount of air thus furnished will be of 75,000 to 100,000 cubic feet per hour for each House, and there will be required 18 to 20 horse-power, exclusive of the power required to fan the air into the dome. The cost of this would be about $25,000 for each House, and our principal profit from such an undertaking would be the advertisement we would get thereby. Will you be kind enough and see Mr. Jenckes in the course of the day, and see if you can come to some understanding with him in the premises.

Yours, truly,

L. BOUVIER.

EDWARD CLARK, Esq.

Mr. L. Bouvier, New York, and Mr. de LaReintrie, Baltimore, called to see Mr. Clark; will return again at about 11 o'clock a. m.

UNIVERSITY OF MARYLAND, *March* 28, 1870.

SIR: From what I know of the principle and the construction of the Tellier "refrigerating machines" and "ice machines," and from the results of their actual use in Europe, where they have been thoroughly and severely tested, they will, in my opinion, accomplish all that is claimed for them in your circular.

WILLIAM E. A. AIKIN, M. D., LL.D.,
Professor of Chemistry, &c., &c., &c.

H. R. DE LAREINTRIE, Esq.

COLUMBIA COLLEGE, NEW YORK,
President's Room, June 13, 1870.

DEAR SIR: I owe you an apology for not having sooner acknowledged your very complimentary letter of the 2d instant. There has been so unusual a pressure of occupation upon my hands as to throw all my correspondence into arrears.

I am very much gratified to see that the admirable inventions for producing intense cold, artificially, are beginning to be appreciated in this country as well as abroad, and I have no doubt that they are destined to be productive of very great public benefit. That of Mr. Tellier, in which you are interested, has great capabilities, and promises, I think, to be not only useful, but profitable to those who employ it. Meantime there seems to be springing up some controversy * among the different patentees in regard to their respective claims to originality. I sincerely trust that this may not be the occasion of preventing the public from reaping the full advantage which any one of these beautiful processes is capable of bestowing.

With my best wishes, I remain, very respectfully, your obedient servant,

F. A. P. BARNARD.

H. R. DE LAREINTRIE.

NEW YORK, *October* 20, 1870.

DEAR SIR: After spending nearly two weeks in making an exhaustive and critical examination of your Tellier ice machine, (No. 4,) now working at the Morgan Iron Works, and watching its operation through as trying circumstances as an ice machine ever worked, and seeing it produce ice at the rate of 100 to 120 pounds *per hour*, I have no hesitation in stating that I consider this machine the simplest and by far the cheapest as to construction, while the process itself is actually the most economical, in producing artificial ice, of any in use.

I have come to this conclusion after managing as chief engineer, for three years, the large works of the Louisiana Ice Manufacturing Company, in the city of New Orleans, where *six* large Carré's machines are in operation, and after examining critically *all* other machines now offered in the United States.

Respectfully, yours,

THOMAS F. PETERSON,
Chief Engineer Louisiana Ice Manufacturing Company's Works, New Orleans, La.

L. BOUVIER, Esq.,
Secretary United States Ice and Refrigerating Company.

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* There is none about the Tellier patent. Professor Twining, after seeing the ice machine at work in New York, September, 1870, admitted that Tellier's machine was different and far superior to his, (Twining's,) never fully developed.

H. R. DE LAREINTRIE.

OFFICE No. 61 BROADWAY, *New York, October* 20, 1870.

My DEAR SIR: Inclosed herewith I send you a letter addressed to the company by Thomas F. Peterson, chief engineer of the Louisiana Ice Works in the city of New Orleans, giving his opinion of the merits of the Tellier ice machine. This, from the man who is the chief of the only ice works in the United States making 72 tons per diem, is praise indeed. He thinks it far superior to all other ice machines, and he has examined all, and knows more about ice machines than any man in this country. He is exceedingly enthusiastic about it, and has been up to the works every day and all day for the last two weeks.

What will Messrs. Carré & Co., do you suppose, say now? He is just as ardent an admirer of our refrigerator.

Very truly, yours,

SAMUEL C. REED,
President.

To H. R. DE LAREINTRIE, Esq., *Baltimore.*

The foregoing are true and correct copies of the original letters now in my possession.

H. R. DE LAREINTRIE,
34 *Post Office Avenue, Baltimore.*

FEBRUARY 8, 1870.

OFFICE OF BALTIMORE AND TEXAS STEAM TRANSPORTATION CO.,
No. 34 *Post Office Avenue, Baltimore, May* 14, 1870.

SIR: I have the honor to inclose, herewith, the following papers and drawings, viz:

No. 1. Proposal and estimate of the "United States Ice and Refrigerating Company," of the city of New York, of the expense of refrigerating and ventilating the two halls of Congress; the descriptions of "Tellier's refrigerating machine," the drawing of which was left with your committee on the 28th ultimo, and the specifications thereof, subsequently mailed to your address.

No. 2. Drawings, by Professor Seager, of the "spring cock A," and lubricating cup B, part of the machine.

No. 3. Descriptions of said spring cock A.

No. 4. Descriptions of the said lubricating cup and vapor trap B.

No. 5. My circular, with the addenda thereto, since attached to the same.

The attention of the committee is also called to the low estimate of cost in performing the entire work, of arranging and putting in place and working order the entire machinery on payment of $100,000, our account, in advance, the company guaranteeing to furnish all additional funds that may be requisite in perfecting the work, and taking all reasonable risks that may be required by your committee.

Attention is also respectfully called to the *small cost of fuel* for operating these machines, not exceeding twenty-five or thirty dollars per diem.

I have the honor to be, very respectfully, your obedient servant,

H. R. DE LAREINTRIE,
President, Sole Agent for the District of Columbia.

Hon. THOMAS A. JENCKES,
Chairman House Committee on Ventilation
of the Capitol of the United States, Washington, D. C.

No. 1.

OFFICE OF THE UNITED STATES ICE AND REFRIGERATING COMPANY,
No. 61 *Broadway, New York, May* 9, 1870.

SIR: Agreeably to the request made, on the 28th of April last, on the occasion of my interview with you, I beg to submit herewith the brief memorandum of a plan for cooling and ventilating the two halls of Congress.

I do not propose to enter, here, in the lengthy discussion of trite and obsolete theories on ventilation, nor attempt to demonstrate, by means of elaborate algebraic equations, the possible effect of very abstract causes. The facts which I shall endeavor to set forth before you will be such, only, as will fully stand the test of plain common sense and practical experience.

From such information as I have been able to obtain—and I have taken pains to consult parties both competent and experienced—I have reason to believe that the ventilation of the halls is neither as imperfect nor as deficient as many imagine; the main

difficulty lies, undoubtedly, in the absence of means to properly control the temperature of the rooms, both in summer and winter.

That there is very good, if not wholly sufficient ventilation, is shown by the following fact: the rooms, as is well known, are heated by indirect radiation—that is, by means of hot air from furnaces, supplied through ducts and flues.

No difficulty has ever been experienced, I believe, in maintaining constantly a sufficiently high temperature in the rooms. Now, this could not be done if the ventilation were particularly deficient, and for this reason: if a pipe containing hot water be led to a vessel, closed so as to allow of no egress, when the vessel has been filled so that no more water can enter it, the contents will, in a reasonably short time, cool down to the temperature of the ambient air. In the same manner, when hot air is brought into a room through a flue, unless there be a corresponding outlet, and consequently proper and sufficient circulation, a time must come when no more hot air can gain admission, and the atmosphere of the room, being stationary, must necessarily fall gradually until it approximates that of the outer air.

Disagreeable smells have occasionally been noticed in the halls, and the fact attributed, I think without cause, to deficient ventilation. If a person has been partaking of food seasoned with onions or garlic, or smoking strong tobacco, or drinking alcoholic liquors to excess, the unpleasant odors arising from his person and resulting from these facts will be quite perceptible within a moderate distance, even in the open air, and *a fortiori* in a closed room.

In the matter of temperature, the great difficulty is to suit at once the various temperaments and physical constitutions of the members. Warm and cold are but relative terms, which do not apply equally to every one and, as an illustration, I have heard it stated that the late William P. Fessenden was frequently known to shiver with cold in the same atmosphere which Mr. Hale, of New Hampshire, found oppressively warm.

It frequently happens that members will enter one or the other House at an early hour, to write letters, or for other purposes, and a temperature must be provided in which they may sit comfortably: but it is quite evident that when the hour of meeting has come, the floor has filled with members, and the galleries with spectators, each and every one generating more or less heat, this same temperature becomes almost intolerable.

What, therefore, is absolutely and pressingly needed, is a system by means of which the temperature of both halls may be kept under perfect control, and may be depressed at will, both in winter and summer, with even more rapidity than it can now be raised, whilst, at the same time, securing additional ventilation and a perfectly pure atmosphere.

Such are precisely the results which can be easily attained by means of the "Tellier Air-cooling Apparatus," a drawing of which has been left with your honorable committee by Mr. H. R. de LaReintrie, and a detailed description of the working and construction of which has since been forwarded to you by the same gentleman. I beg to refer you particularly to both of those documents.

The machines are now in successful operation in a number of establishments, both public and private, throughout Europe, among others in the great and well-known brewery of Messrs. Bass & Co., Burton-on-Trent, England, which fact will be found fully stated in Professor F. A. P. Barnard's report on the Paris Exposition, page 393. In this country it has also been introduced in the brewery of Mr. George Merz, New Orleans, where it is giving perfect satisfaction, producing and maintaining with ease *any desired temperature* in a room 50 by 50 and 12 feet high. That these machines are specially adapted to the purpose for which we are now tendering them, is shown by the following passage, quoted from Professor Barnard's report, already mentioned, page 391:

"The ventilation of churches, theaters, and all public assembly rooms during the warm season is another object to which these refrigerating apparatus may be made beneficially subservient. It is now generally true that during the warm days of summer the outer air is at a higher temperature than that within the building; and this will invariably be the case in structures of masonry, provided the windows be kept open during the night and are closed at sunrise. Notwithstanding this, a crowded assembly will find it intolerable, in summer, to sit in an apartment where there is no movement of air. The windows will be thrown open, the warm air admitted, and the assembly will be more uncomfortable than before. Nothing is easier, however, than to introduce into such apartments a steady flow of air at a temperature of refreshing coolness, by which the hot air shall be expelled, and a permanently comfortable atmosphere substituted. To accomplish this desirable object it will not generally be necessary to provide any special system of distribution for the cold air introduced. Our public buildings are in most cases already provided with ducts for conveying heated air in winter from furnaces to their several apartments, and the same channels will serve in summer for air artificially cooled. It will evidently be no less easy to control, by means of registers, the degree of depression of temperature in the apartments than it is, in the opposite season, to regulate the heat."

A glance at the drawing and specifications left with your committee will at once show how specially adapted our machine is to the above-named purposes. Of all ap-

paratus invented to produce artificial cold, it is the only one the construction of which is specially intended for purposes of ventilation and the cooling of air.

In adapting these machines to the ventilation and cooling of the halls of Congress, but few, if any, alterations would be required in the present arrangements of ducts, flues, and registers. These could easily be used to bring in the cold air; ducts of aspiration would, however, have to be established at some point or points near the ceilings, and as far as possible from the orifices of discharge, in order that the cold, fresh air may be compelled to traverse and permeate the entire atmosphere of the halls before finding an outlet. Thus the cold air, driven by the ventilating fan, enters the rooms at a point near the floors; there it meets the warm air, mixes with it, and as it becomes thus rarefied, it rises toward the ceiling, carrying off with it all the impurities or foul gases with which it may come in contact. At this point, the ducts of aspiration, which lead to the chambers of the ventilator, create a constant draught, and thus the warm, impure air is constantly drawn out of the rooms, carried to the ventilator, and again driven through the refrigerating cylinder, where all such impurities and foul gases are cast off in the shape of an abundant condensation, the product of which may be led to any of the existing drains in the building. The chamber of the ventilator shall also be placed in communication with the outer air, by means of a duct or flue, through which a steady stream of fresh atmospheric air shall be constantly brought to the machines; it is immaterial where this air is drawn from, as it is always purified and cooled in passing through the cooling cylinder. By these means, simple and rational in the extreme, it will readily be seen that constant renovation, constant purification, and constant cooling of the atmosphere in the halls will be perfectly and completely secured.

In addition to the various and obvious means of controlling the temperature of the rooms, the action of the machine itself may be regulated at will, by means of an improvement known as a *spring-cock*, which has been added to the apparatus since the drawing was made, of which you have a copy. We have annexed hereto (marked A) a diagram of this ingenious contrivance. Fears have been expressed of leakage of the material used in producing the cold; no apprehension need be felt on that score. Machines of various descriptions are being constantly built in this and other countries, which must be equally secure against leakage as the one of which we are now speaking, and there is no difficulty in obtaining that result. Of these particular machines, Professor Barnard, in his already twice-quoted report, speaks of "the very effectual contrivances for preventing the possibility of the slightest leakage through stop-cocks, joints, or stuffing-boxes." Reference to the drawing and detailed description of our machine will show, conclusively, that there is literally no possibility of leakage at any point, save at the stuffing-box of the pump. To obviate even this bare possibility the inventor has devised a peculiar contrivance, more ingenious still than the "spring-cock," and which serves the double purpose of lubricating the piston-rod of the pump and of intercepting any vapors which might attempt to escape in that direction. We have annexed hereto, marked B, a diagram of this clever piece of mechanism. Finally, and to quote once more from Professor Barnard's report:

"No leakage can take place here, (the stuffing-box of the pump,) as the alkali in the vapors, acting upon the oil of lubrication, would saponify the latter, and thus form an unctuous compound, which, while answering fully the purposes of lubrication, would effectually prevent any escape of gas."

From all that has been said above, it will readily be seen that we propose to ventilate the rooms by means of an *upward* current of air. In adopting this mode of ventilation, we have endeavored, whilst conforming ourselves to the simplest laws of nature, to obtain the greatest possible amount of comfort for the members who are compelled by duty to remain on the floors of the Houses, and have assumed that the comfort of the spectators, who occupy the galleries from motives of amusement or curiosity, was but a secondary consideration. Thus, in our system, the purest and freshest air in the room will always be in that part of the rooms occupied by the members, and their number being relatively very small, no material inconvenience can follow to the spectators above. If, on the contrary, a downward current were adopted, all the effluvia and foul exhalations from the promiscuous crowd in the galleries must necessarily, and despite any possible means of prevention, be swept down upon and to the great inconvenince and discomfort of the members below. Moreover, experience has shown that, although carbonic acid gas is theoretically heavier than atmospheric air, and whatever may be the proportion of that gas in the exhalations from living bodies, the foul air in crowded assemblages always tends to rise, and it is much easier to proceed in accordance with, than in opposition to, its natural tendencies.

In order the better to attain the aim and object of our plan, we would suggest the construction, immediately under the roofs which cover the two Houses of Congress, of ceilings of some neutral material, plaster and laths or simple boards. The roofs are of corrugated metal, and act as powerful conductors of both heat and cold. The construction of the ceilings named above would, under any circumstances, be an improvement on the existing state of things; but we do not make it a part of our plan proper, nor is the

expense of such included in the estimate furnished below. It would be difficult, with the rather limited information at our command, to enter into a minute and detailed estimate of the cost of applying our system to the two halls of Congress. In addition to our machines proper there would be required motive power to the extent of 40 to 50 horse-power for the Senate and 60 to 70 horse-power for the House. The motive power now in use could undoubtedly be made available, at least in part, and it must be remembered that the sole and only additional running expense resulting from the adoption of our plans will be the cost of the fuel required to generate the required power, and this will not exceed $25 to $30 per day, even when running constantly, and upon this point we challenge comparison with any other scheme or plan.

Basing ourselves upon such approximate estimates as we have been able to make of the number and size of the machines required, we beg to submit the following proposition: We will undertake to provide both Houses of Congress with such machinery and apparatus, including the required power, fitting up, &c., as will furnish the means of lowering, at any time, the temperature to 70° or 75° Fahrenheit, the atmosphere produced being maintained perfectly pure as well as cool, and the entire expense for both Houses shall not exceed $300,000, that sum covering all such profit as we hope and expect to realize from the undertaking. Further, if an appropriation of $100,000 be made for the purpose, we will undertake to execute the work to the entire satisfaction of Congress, spending a like sum and taking all further additional risk ourselves, and no part of the remaining $200,000 need be paid until the work has been so completed.

We are prepared to commence work at any time, and if placed in position of doing so by or before the 1st of July next, we think we could have it all done by the time Congress next assembles in December next, or very soon thereafter.

All of which is respectfully submitted.

SAMUEL C. REED, *President.*
L. BOUVIER, *Secretary.*

Hon. T. A. JENCKES,
Chairman House Committee on Ventilation.

BALTIMORE, *May* 14, 1870.

The within proposal and estimate is most respectfully submitted to the careful consideration of the honorable the Committee on Ventilation of the two Houses of the Congress of the United States by their very obedient servant,

H. R. DE LAREINTRIE,
Sole Agent for the State of Maryland and the District of Columbia.

Nos. 3 and 4.

Description of drawings A and B.

A. NOTE I.—The float L, at the base of the condensing coil, which is intended to regulate the flow of the liquid back into the cylinder, has been replaced by a "patent spring cock," which effects the same object, whilst permitting, at the same time, the regulating exactly of the pressure in the machine, and consequently to control perfectly its action.

B. NOTE II.—The lubricating cup, which appears on the compressing pump, and which is intended to lubricate the piston-rod of the said pump, is so contrived as to act at the same time as a trap to catch any vapors which might escape in that direction.

As this is the only point where, from the peculiar construction of the machine, there would possibly be any leak, the contrivance effectually removes all such possibility.

Most respectfully submitted.

H. R. DE LAREINTRIE,
Sole Agent for the District of Columbia.

No. 4 *bis*.

Description of lubricating cup and vapor trap, marked B.

The lubricating cup placed upon the piston-rod is cast on the jacket of the pump. Its object is to prevent any leakage of ammonia or methylic ether. It is composed of a piston *a a*, worked by means of a crank B, which forces the oil contained in the cup

c c within the stuffing box D D. The packing of the piston-rod, as plainly shown in the drawing, is in two pieces, E F, divided by a perforated ring, G. It is easy to understand that the oil, pressed by the piston *a a*, caused the valve *s* to drop down, escapes through the orifices *r r*, and is brought by the plunger *n* upon the ring G. Per contra, the vapors which might pass through the packing F rise in the chamber D D, pressing the oil upon the piston-rod, and consequently it is the latter alone which can possibly escape through the packing E. Thus, if care be taken to keep up the supply of oil in the cup, perfect lubrication will be secured, and at the same time absolute protection against leakage. Care should also be taken always to keep the plunger *n' n' n* in perfect condition, for the reason that with its assistance it is always oil which rises in *n* up to the valve; whereas otherwise, when the oil would be below the orifices *r r*, it would be gas, and if the valve *s* leaked the piston would act badly, and at the same time vapor would escape through the cup *c c*. Oil may be poured rapidly into the cup until the piston resists under the hand; then it may be certain that it is full. There can never be too much oil, as the consumption is always the same; but lack of oil would be bad. Watch this well, as there only is any chance of leakage. Use castor oil or glycerine.

Most respectfully submitted.

H. R. DE LAREINTRIE,
Sole agent for the District of Columbia

No. 5.

[Circular.]

BALTIMORE AND TEXAS STEAM TRANSPORTATION COMPANY.

Capital stock $200,000.

A joint stock company, chartered and organized* under the laws of Maryland, for the direct transportation of general freight between Baltimore and ports in Texas.

The steamers of this line will be provided with Tellier's (French) refrigerating machine, *guaranteed* by the patentees to keep fresh meats, fruits, &c., in perfect condition, in any climate, by means of cold air—without the use of ice.

The privilege of the exclusive use of this patent, for the transportation of fresh meats, &c., from Texas to Baltimore, their preservation and sale, within the State of Maryland, is vested in the undersigned.

A practical man is ready to superintend the beef business in Texas.

THE TELLIER REFRIGERATING MACHINE

Is the invention of Monsieur Charles Tellier, of Paris, France, a practical machinist of great experience and inventive genius. It has been patented in England, the whole of Europe, and in the United States. It is in actual operation in these countries, and also in the Argentine Republic; has been fully and publicly tested, and found to answer *all* the purposes to which it is applicable, and has produced the results claimed for it by its inventor and patentee. Fresh beef, mutton, and game *have been conveyed* from London to Rio, in the steamer "Rio de Janeiro," expressly fitted out for the purpose with the Tellier Refrigerating Machine, and, after a voyage of *twenty-one days*, were found to be in perfect condition. During said trip, and while on the equator and in its vicinity, the temperature in the refrigerating room was kept at from 32° to 33°, (Fahrenheit,) while outside it ranged from 105° to 107°, and the water itself stood at 80° to 90°.

Beef, which had been *six weeks* in the preserving room, was eaten at the Café Coraza, in Paris, by over forty gentlemen of the most fastidious tastes, who pronounced it of superior quality, delicious flavor, and in a perfect state of preservation.

Game and mutton kept *nine weeks* in Tellier's refrigerating room, in Paris, were eaten at a dinner given to Minister de Lavallette and pronounced in perfect condition. It is proposed to organize a company in Paris,† with a capital of $2,000,000, for the importation of fresh beef from the pampas of the "La Plata" to France, to consist of twelve steamers, each to be provided with the Tellier refrigerating machine. The proprietors of the "Grand Hotel," in Paris, are having one of these machines fitted up for the various requirements of that immense establishment, and which will soon be in running order. It is also in use in many other cities in Europe, and such is the present demand for it, that Mr. Tellier has been compelled to largely increase the area of his manufacturing building (4,100 metres) and the force of his operatives. In New Or-

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* Organized May 4, 1870.
† "Société Maritime pour L'importation des Viandes du La Plata."

leans, Louisiana, it has been adopted and set up by Mr. Merz in his large brewery, and has proved a *perfect success*. A company has been organized in the city of New Orleans for the transportation of fresh beef from Texas to that city by means of the Tellier refrigerating machine, and prominent gentlemen of that city, headed by Mr. J. Viosca, jr., have paid the sum of $50,000 of the capital stock of $250,000 into its treasury, and the operations will commence so soon as the machines arrive from France and are fitted up in their steamers.

In the city of New York another company is organizing, having in view the business of introducing fresh beef in that great emporium by means of the Tellier machine.

It is contemplated to organize a company in Paris to transport fresh beef from Hungary and Gallicia to that capital in the Tellier refrigerating railroad cars, provided with this same machine, the power for creating the refrigerating being taken from the car wheel. The outlay is estimated at 450,000 francs, or $90,000 in gold, to furnish, daily, 15,000 kilos (33,000 lbs.) of beef. If the result gives but 10 centimes profit per kilogramme—(about one cent per pound,) a very moderate price—the profit would be for 300 days, say $15,000 \times 10 \times 300 = 450{,}000$ francs, *or one hundred per cent.*

To fit out a steamer for the transportation of 200 tons of fresh beef from Texas to Baltimore would require, (making full allowance)		$25,000
In addition, a cash capital of, say		15,000
Estimated outlay		40,000
The expenses of a proper steamer of 600 tons, including charter-party, running expenses, insurance, &c., per month	$4,000	
600 head of cattle, at $15 per head	9,000	
Slaughtering and shipping	1,000	
		14,000
Result:		
360,000 pounds beef, at 8 cents	28,800	
600 hides (80 pounds each,) at 10 cents	4,800	
24,000 pounds of tallow, at 10 cents	2,400	
Tongues, horns, feet, &c	600	
		36,600
Net profit *per month*		22,600

Or over 50 per cent. *per month* on $40,000 invested!

This *result* is irrespective of *other freight*, both to and from Texas to Baltimore, which at this day will pay, whenever a steamer is put on this line. The hides and tallow, (fifth quarter,) *alone*, will cover the cost of the beef in Texas, and, when landed in Baltimore, *in perfect condition*, transferred to a refrigerating room on shore, it can readily be sold for *one-half* the present, or future ruling prices. That it can be done, and "will pay," there is no doubt. Should any unforeseen contingency supervene, the margin of profits, *per annum*, is certainly ample.

The Tellier refrigerating machines range from No. 1 to No. 7, cost from $3,000 to $18,000 currency, will cool insulated rooms of from 110 to 4,660 cubic yards capacity, and are *absolutely guaranteed* to produce the degree of cold air required, *without the use of ice*, and at a very trifling expense. Were this not a fact, no man would make, sell, use, or recommend their use.

FREIGHT.

To point out to the intelligent and energetic merchant of Baltimore the many and positive advantages to flow from a direct communication by steamer between our rapidly-expanding city and the ports of Texas is unnecessary. Suffice it to state that such a line is required by the actual wants of the commerce of this metropolis and the oft-repeated wishes of the people of Texas for more immediate and speedy commercial intercourse. The existing trade is, of itself, an ample incentive to the prompt inauguration of this enterprise, and no doubt can be entertained that this commerce only needs development to insure, in the future, its realization on a scale greatly enhanced, through the facilities thus provided.

To the capitalist and business man it holds out a safe and remunerative investment of his means, with no greater risks than those involved in any other enterprise; combining superior commercial facilities with the ports of Texas and the introduction of beef of well-known and acknowledged quality, at prices much below the present, thereby benefiting the people of either State.

Conditions of subscription to the capital stock of $200,000.

1. Two thousand shares at $100 each.
2. Not less than five shares to be subscribed.
3. No installment to be called in until one-half the capital stock is subscribed.

4. Only one installment per month to be paid.
5. Said installment to be ten per cent. of the amount subscribed, by each stockholder.

A portion of the stock to be reserved for the patentees, for the exclusive privilege and use of the patent, by the company, for the transportation of fresh meats, &c., from Texas to Baltimore, their preservation and sale within the State of Maryland—subject to future agreement.

Your attention is invited to the consideration of this great enterprise, respecting which every desirable information will be cheerfully communicated by the undersigned.

Books for subscription to the stock now open at No. 38 Post Office avenue.

H. R. DE LAREINTRIE,
Sole Agent for the State of Maryland, and President of the Company.

BALTIMORE, *March* 17, 1870.

SPECIAL NOTICE.

UNIVERSITY OF MARYLAND, *March* 28, 1870.

SIR: From what I know of the principle and the construction of the "Tellier Refrigerating Machines" and "Ice Machines," and from the results of their actual use in Europe, where they have been thoroughly and severely tested, they will, in my opinion, accomplish all that is claimed for them in your circular.

WILLIAM E. A. AIKEN, M. D., LL. D.,
Professor of Chemistry, &c., &c.

H. R. DE LAREINTRIE, Esq.

ORDERS

Solicited for "Tellier's Refrigerating Machines," adapted to the refrigeration required in hotels, breweries, packing-houses, malt-houses, distilleries, fruiteries, dairies, alcoholic and all other establishments which need a cold temperature, which is guaranteed by the "Tellier Refrigerating Machine," without the use of any ice whatever and at nominal cost.

Orders also solicited for "Tellier's Ice Manufacturing Machines," distinct from the first above named. The ice made by this machine is in every respect equal to the natural, and has a greater density than the Boston ice. This has been tested and shown by experiment, at Marseilles.

They will be furnished, on notice of three or four months, on reasonable terms.

H. R. DE LAREINTRIE,
Sole Agent for the State of Maryland and District of Columbia, and President of the Company.

[American, May 4, 1870.]

[By telegraph.]

TELLIER MACHINE—GREAT SUCCESS.

"NEW ORLEANS, *May* 3, 1870.

"Machine working perfectly. Any temperature desired; all are practically convinced.

"F. M. MCMILLAN.

"To L. BOUVIER, *New York.*"

And to the truth of which I, on honor, hereby certify.

H. R. DE LAREINTRIE,
Sole Agent.

BALTIMORE, *May* 4, 1870.

[Gazette, May 4, 1870.]

TELLIER MACHINE.

Please insert in your estimable Gazette the following extract of a letter just received from New Orleans, dated May 3, 1870:

"In half an hour we cooled the cellar (Merz's brewery) from 78° to 59° F., and the cooling cylinder was 34°, while the exhaust pipe from cooling cylinder to condenser was so hot one could not bear his hand upon it;" and also that "both myself and all the brewers and engineers of the establishment present were perfectly convinced and satisfied of the success of the refrigerator." McMillan writes, "I can keep this large cellar cold upon one barrel of coal per day. After that I do not think any one need doubt that we can keep the hold of a steamship cold."

To all of which I hereby certify.

H. R. DE LAREINTRIE,
Sole Agent for Maryland and District of Columbia.

A true copy of the original.

H. R. DE LAREINTRIE,
President.

BALTIMORE, *May* 14, 1870.

THOMAS BOYD'S PLAN.

UNITED STATES INTERNAL REVENUE,
ASSESSOR'S OFFICE, FOURTH DISTRICT MASSACHUSETTS,
Boston, April 29, 1870.

DEAR SIR: I am informed that Congress has made, or proposes to make, an appropriation to try some experiments with reference to ventilating the Capitol. This induces me to respectfully ask your attention, and that of those who have this matter in charge, to Mr. Thomas Boyd's Solar System of Ventilation, by means of caps attached to the top of ventilating flues.

My attention was first called to the subject by being on a committee to consider the matter of ventilation for the Home for Little Wanderers. I made many inquiries, and put myself in communication with architects and all persons here whose experience qualified them to give useful information. The consequence was that we procured one of Mr. Boyd's large ventilators which is successful in changing the air in a large school-room with some thirty pupils, a large nursery with twenty to thirty small children, and a large entry on the lower floor, with water-closets and urinals. It combines the advantages of wind ventilators with the heating power derived from the heat of the sun, which is a vey great advantage. My object, however, is simply to invite attention to its merits.

If you can aid Mr. Boyd in gaining a hearing, by those who have this subject in charge, you will greatly oblige him, as well as

Yours, most respectfully,

OTIS CLAPP.

Hon. N. P. BANKS, M. C.

BOSTON, *April* 29 1870.

DEAR SIR: Having noticed that some action has been taken in Congress towards improving the ventilation of the halls in the Capitol, I am desirous of an opportunity to submit a system of ventilation that has proved successful on a large number of buildings here, and is, in my opinion, peculiarly well adapted to be useful there. For this purpose, I have been advised to introduce the subject to you, and respectfully request that you will have the kindness to present it to the gentlemen or committee having the matter in charge, and obtain from them permission for me to furnish a plan for their consideration.

Not having had the good fortune of being personally known to you, some friends have been kind enough to favor me with letters of introduction, one or two of which you will please find inclosed. I also send herewith a small pamphlet, descriptive of my system, explaining the principle on which it acts, and the kind of apparatus I use to procure and maintain ventilation. This will probably be sufficient at present to enable you to understand what I desire to offer.

Trusting that you may deem this of sufficient importance to the Government to excuse me for troubling you with it, I beg to remain,

Very respectfully, your obedient servant,

THOMAS BOYD, *Architect.*
(*Office No.* 28 *State street, Boston.*)

Hon. N. P. BANKS, M. C.

BOSTON, *May* 3, 1870.

DEAR SIR: Mr. Thomas Boyd, of Cambridgeport, who is well known in this city as a skillful and scientific mechanic and architect, is the inventor and patentee of a Solar System of Ventilalion which has been successfully applied to many of our public and private buildings, and is attracting considerable attention among scientific men. I understand from him to-day that he is about to make application to the authorities at Washington with a view to applying his system of ventilation to the Capitol and other public buildings there, and desires to secure, if possible, the attention of any committee of Congress having in charge the important matter in which he is interested.

Mr. Boyd has shown to me letters addressed to you in his behalf by the Hon. Isaac Livermore, Mr. Otis Clapp, and other gentlemen, certifying to his character and standing in this community, and asking your kind offices in his behalf, which it gives me great pleasure heartily to indorse. I have known him personally and professionally for many years, have seen his solar ventilators successfully tested, and have the utmost confidence in their practical utility.

Any aid you can render to Mr. Boyd, consistent with your many official engagements, to enable him to obtain a hearing, will be highly appreciated, not only by himself personally, but by his many friends in Boston and vicinity, and greatly oblige

Yours, very truly,

N. A. THOMPSON.

Hon. NATH'L P. BANKS,
Washington, D. C.

OFFICE OF THE HUNTOON GOVERNOR FOR STATIONARY
AND MARINE ENGINES AND WATER POWER,
Boston, May 10, 1870.

SIR: We are led to address you, on our return from a recent visit to the capital, during which time we attached, by order of the Department, two of our improved governors to the engines at the United States navy yard. If we are correctly informed, an arrangement by which a more uniform temperature could be maintained in chambers of the United States Senate and hall of Representatives would be met with favor by your committee.

We feel confident that in no way could this end be accomplished more completely than by maintaining in the engines employed for this purpose a perfectly regular and unvarying speed. We therefore very respectfully submit for your consideration the following proposition, which after our large experience in such matters we feel justified in making, thus:

With your permission we will attach to the engines of the heating apparatus of the United States Senate, our improved governors, entirely at our own expense, and without hinderance to the running of engines, awaiting, after a practical trial of the same, your acceptance or rejection. If pronounced sufficiently valuable, the entire cost to the Government will be $200 for each engine. If otherwise, we will remove them, leaving the engines exactly as at present, with no charge whatever.

Very respectfully, awaiting response at your convenience, I am your obedient servant,

J. AUGUSTUS LYNCH,
Treasurer, Proprietors Huntoon Governor.

Hon. THOMAS A. JENCKES,
Chairman Committee on Ventilation, &c., Washington, D. C.

It has been proved conclusively, after long practical trial, (the severest tests being hourly brought to bear,) that by the employment of the Huntoon governor the engine to which it is attached will run without any variation whatever in the speed, whether heavily loaded or running light, and wholly uninfluenced by the varying pressure of the steam.

The centrifugal or ball principle being entirely abandoned, the valve-lever is sustained as easily at one point as at another, by the action of the propeller in the oil cylinder; and from this fact, together with others peculiar to its construction, we are thus enabled to guarantee a direct saving of fuel, or greatly increase the power of the engine.

The ease and quickness with which it can be adjusted, to cause the engine to run either faster or slower, by simply changing the position of the weight on the lever, has been deemed in many establishments of much importance; which will enable the hot blast to be varied to accommodate the variableness of the external temperature.

Our pulleys which accompany each machine are so constructed as to insure great safety from accident to the governor belt, but where it is desired we attach a new device by which the instant any such accident should occur the engine is brought gradually to a stand-still.

Engine-builders and others who have investigated the principle and mechanism of the Huntoon governor, in recommending its use, have convinced their patrons that it possesses decided advantages over any ball or centrifugal device, and a sure proof of its economy in the use of steam commends it to the users of power generally.

Although its reliability is now proved beyond a doubt, on hundreds of engines where other forms of governors have failed, yet, if requested, we are perfectly willing to allow time for trial, and if in any instance its operation is not entirely satisfactory to our customers we shall not consider it a sale, and on its return we will pay all charges of transportation. However violent or sudden may be the changes, we warrant it to absolutely govern the engine.

It is a great favorite, from the fact of its compactness; it is noiseless, and from its peculiar construction requires but little care from the engineer, every bearing being of necessity lubricated.

References furnished from those now using them, in all branches of manufacturing business.

R. K. HUNTOON,
J. AUGUSTUS LYNCH,
Proprietors, 103 *State street, Boston, Massachusetts.*

SUGGESTIONS OF STEPHEN CULVER.

NEWARK, WAYNE COUNTY, NEW YORK,
May 13, 1870.

SIR: Yours of the 7th of April last, in reply to mine of a previous date, stating that any communication on the subject of the better warming and ventilation of the congressional halls would be considered, was duly received. Other engagements have prevented my writing earlier.

In this communication I intend to make only a few general observations relative to fundamental principles involved in warming and ventilating large buildings of the character of the congressional halls, reserving for a future paper matters of detail.

It may be borne in mind that in what I shall have to say I shall speak of the process of *warming* as a different one from that of *ventilation*. In other words, shall not use the term "ventilation" in such sense as to be expressive of the warming of an apartment, since the temperature of the air of an apartment may be raised to a degree which shall be genial, while at the same time it may be greatly vitiated. And, on the contrary, the air of a room may be pure and healthful, and at the same time of too low or too high a temperature to be comfortable. By *warming*, I shall mean the raising and keeping the temperature of the air of an apartment at a degree that would be genial to the occupant; and by *ventilation*, the continuous changing of the air of an apartment by the removal of that which is vitiated from within, and the replacement of it by that which is pure from without.

Because the warming and ventilation of the English houses of Parliament were rendered better than before by the delivery of air at the upper portion of the rooms, many theorists and some practical engineers in this country advocate that system as the very best, while, in fact, it is not, the result in the case referred to being only an instance in which natural laws are opposed, and, to a limited extent, successfully overcome, thereby accomplishing a desired end much less perfectly and at much greater expense than might have been done by another method.

The delivery of air-currents into large halls at the top involves great expenditure for power to move and for conductors to convey them to the apertures of delivery; and when done, that only has been accomplished which could have been effected more perfectly and at much less expense by proper apparatus and delivery at the bottom. When air-currents are delivered at the top, and a corresponding quantity of air is removed from the bottom—the only proper place for removal—the general current in the apartment is as strong as in the case of the delivery at the bottom, for the reason that if, in connection with and as a part of each method, the air be withdrawn from the bottom, an equal quantity in each case would in equal times be moved to the apertures of discharge.

If air-currents be admitted at the bottom of an apartment they at once rise to the upper and highest portion of it—to the very place to which they are conveyed by costly appliances by the method called "downward ventilation." Besides, if the vitiated air be withdrawn from the bottom of the apartment the currents of replacing air will readily, naturally, and in sufficient quantities, flow into it; and if properly admitted and distributed, are unfelt and unperceived.

One of the principal causes of failure in the endeavor to warm and ventilate large spaces is, that the attempt is made to accomplish the object through the agency of a much too limited supply of air, the practice being to depend upon a comparatively small quantity raised to a comparatively high temperature. The quantity employed should be very much larger than is usually provided, and should not be raised higher than the temperature of surfaces heated by steam of pressure not exceeding 10 pounds to the inch.

Another difficulty encountered is, that by the usual process of heating, the air delivered to the apartments has an odor imparted to it, and also a quality which produces an unpleasant sensation when respired. These conditions are caused by the faulty construction of the heating surfaces by which the air-currents are detained in contact with them too long a time. The contour of all heating surfaces should be such as to permit the impinging currents to leave freely and without detention; and all air-chambers and conductors for the supply of air should be so constructed as to afford a speedy passage, without compression or obstacle to retard.

The proper method, therefore, for warming and ventilating large spaces, such as the congressional halls, is, to deliver at the bottom of them, in sufficiently large quantities, at proper localities, through properly constructed diffusers, air warmed by surfaces heated by steam of low pressure, and the withdrawal of equally large quantities from the bottom of the apartments through sufficiently numerous and properly constructed and located exhaust-orifices, the withdrawal being effected by mechanism actuated by a properly adapted steam-engine; no apparatus except a suitable system of conduits, and no extraneous mechanical power being required for the delivery of the air *to* the apartments.

An opinion has been expressed, as stated in some of the public journals, that there

could be no efficient ventilation of these halls without the removal of the lobbies. Such, however, is not the fact, for, by proper appliances, all parts of the halls could be well ventilated without such removal. By the employment of apparatus commensurate and properly applied, any large space, however irregular in form, can be as well warmed and ventilated as a small one.

Should the committee desire suggestions relative to any particular points, I should, at any time, be pleased to furnish them.

Very respectfully,

STEPHEN CULVER.

Hon. THOMAS A. JENCKES.

PROPOSITION OF WILLIAM WHEELER HUBBELL.

To the Committee on Ventilation of the House of Representatives:

Referring to my proposition submitted, I now say that I have examined the existing construction for ventilation and heating, &c., and do not propose to alter or impair any of it; but can adapt the principles of my invention or system to the existing constructions, to answer every purpose. I therefore propose—

1. To let cold water flow through the steam-heating pipes in summer and use them for steam, as heretofore, in winter.

2. To throw a large fine cold water spray, with double supply head, at the air-supply mouths to the existing blowers on the outside of the building, arranged as I will direct.

3. To let the engineers have a supply register from the hall blower, and run it at speed for this addition, arranged as I will direct.

4. To place the escapements on the roof, constructed and arranged as I will direct.

5. For winter use, to moisten the air, I use a steam spray near the steam-pipes to heat and to insure proper moisture; in very hot weather I admit a very fine steam spray discharge at the eye of the blowers; very little steam will do in summer, just to properly moisten the air without heating it.

I will put in these improvements for the sum named in my former communication, and will give specific details of sizes, forms, construction, &c., as required.

6. There should be a ventilating column with proper ornaments, &c., to suit general appearance of the Capitol—provided, after the other work is put in and in operation, I shall find that its proximity to the supply-mouth will not affect the temperature or quality of air at that point. The cost would be about $3,000 additional, properly constructed. It may not be essential or material to place it there, and hence I do not propose now to add it. The registers I shall put in will dispel some of that heat, and possibly be all-sufficient.

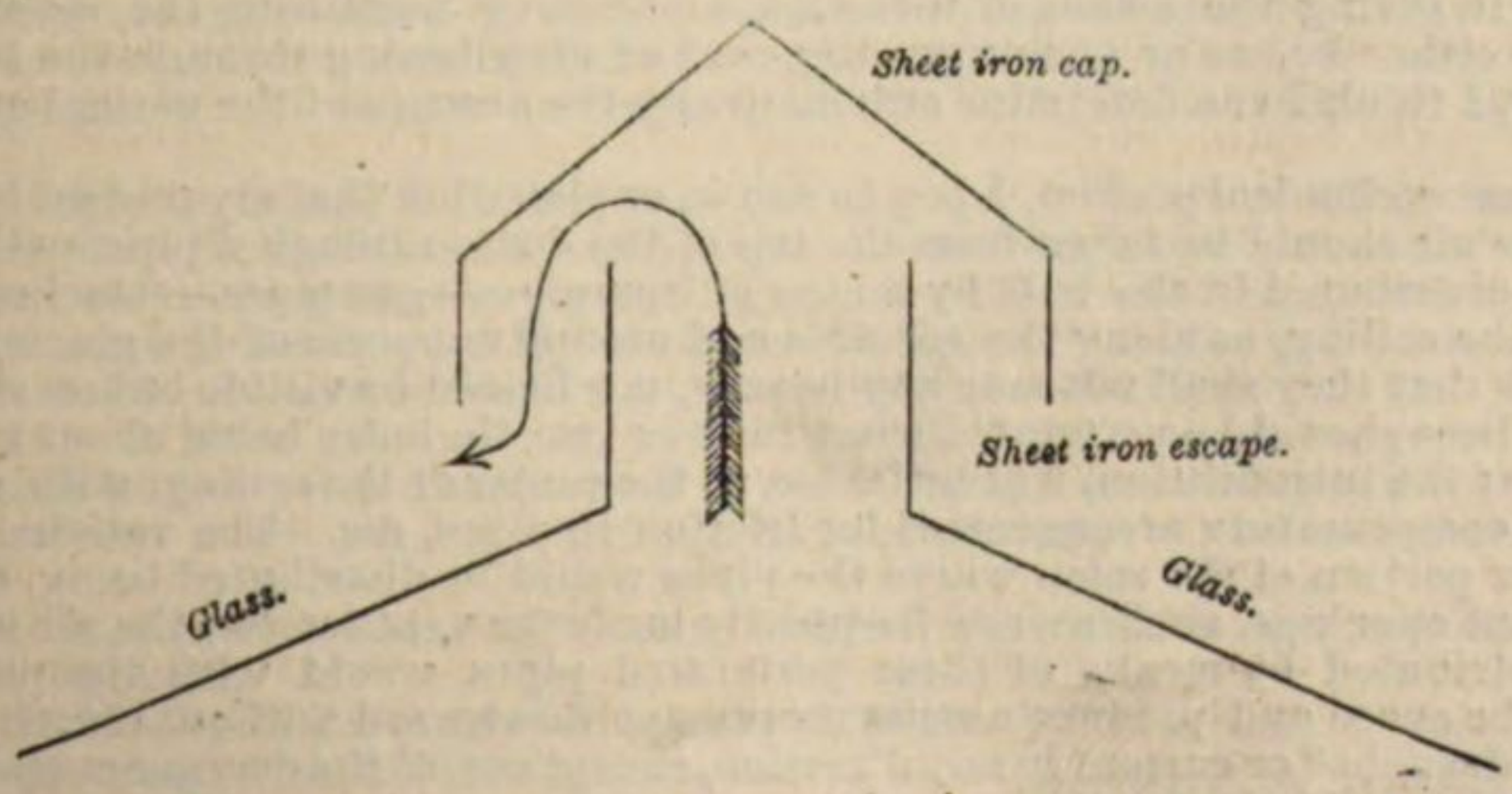
Respectfully,

WM. WHEELER HUBBELL,
340 *Pennsylvania Avenue.*

PLAN OF WILLIAM WHEELER HUBBELL TO VENTILATE THE HOUSE OF REPRESENTATIVES.

To the House of Representatives, or Committee on Ventilation United States Capitol:

Place five escapes on the glass roofing, covered thus, made of sheet-iron:



TO SUPPLY FRESH AIR.

Make a cold-air connection with the supply-furnace pipes, and use a fine jet of steam to accelerate and moisten the supply in hot, dry weather, with a waste pipe or opening to let off the condensation, and admit the fresh air into the House through the registers, that it may be disseminated without too much current at any one place. Have proper cut-offs so that the arrangement may be used both in winter and summer, for both heating and cooling the House.

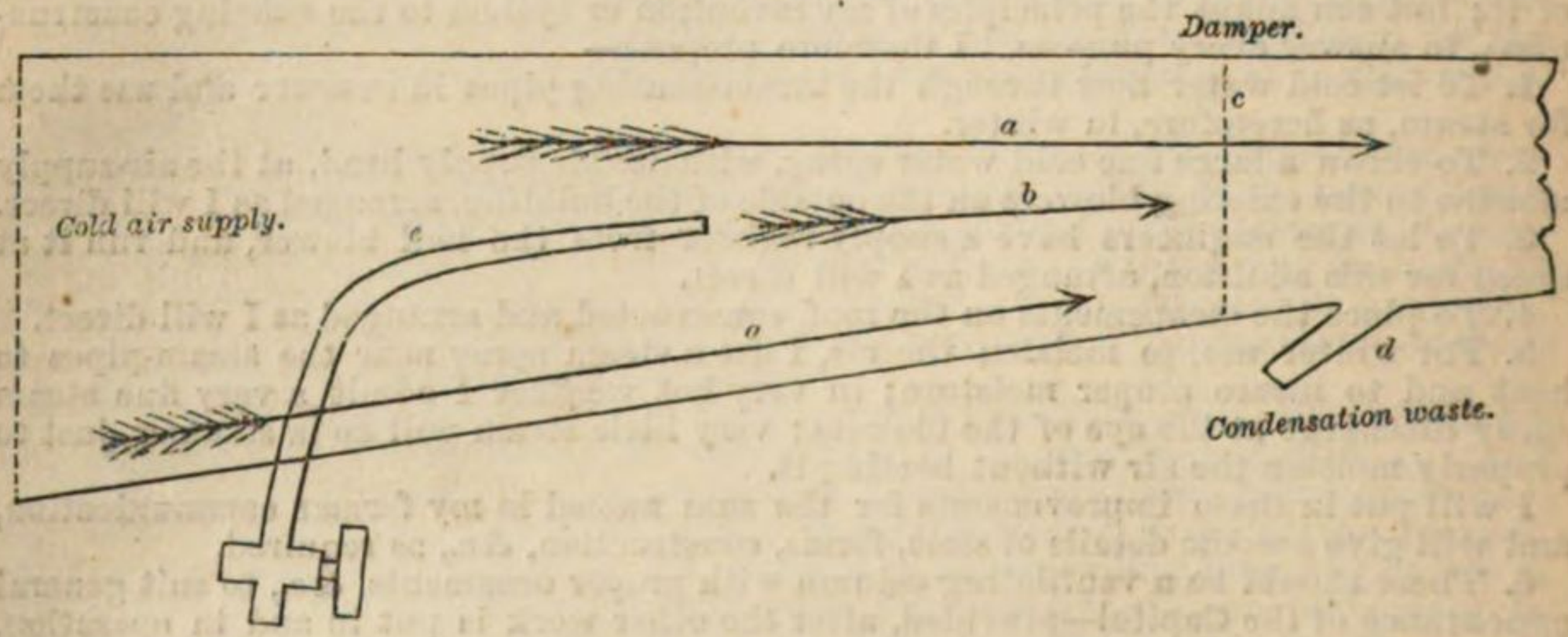
I will put in this arrangement so that it shall answer the purpose for $12,000.

To conform to the action of the House already had, I will put in the arrangement with the experimental fund appropriated, and if the House is satisfied with it the balance of the $12,000 shall be paid to me, and if not satisfied with it then nothing more need be paid to me for it.

WM. WHEELER HUBBELL,
Inventor and Scientific Engineer, Philadelphia, Pennsylvania.

WASHINGTON, D. C., 340 *Pennsylvania Avenue, May* 14, 1870.

PLAN OF SUPPLY.



a a, Arrows indicating course of air-supply to register-pipes; *b*, coinciding steam-jet one-quarter inch; *c*, damper; *d*, condensation waste; *e*, steam-jet supply-pipe to moisten the air and accelerate the supply.

WM. WHEELER HUBBELL.

MAY 14, 1870.

PROPOSITION OF R. H. ATWELL.

23 COURTLAND STREET, *Baltimore, June* 11, 1870.

SIR: I am informed by a member of your House that your committee (on ventilation) receive propositions for plans of ventilation applicable to the auditorium and give them a respectful consideration. I will, with your leave, give a very brief statement of my plan involving the use of power. If it should prove to be at all worth while I will elaborate it, giving the means of filtration, moistening, measuring the moisture automatically either before or after warming, and of distributing through the hall, and if necessary, I think I can determine automatically the absence of the normal quantity of oxygen.

As to the mechanical portion, I beg to say in explanation that my present impression is that the air should be taken from the top of the dome through a pipe, probably tinned, and distributed in the hall by means of iron pipes—gas pipes—attached to every angle of the ceiling, as along the cornices and around supports of the glazing, in such manner as that they shall not mar any beauty, nor indeed be visible but on close examination; these should be perforated every inch or two, the holes being about the twelfth of an inch; the introduction, if practicable, at the center of the ceiling, with, as regards delivery, compensatory arrangement for friction in pipes, &c. The rationale is thus: the higher portion of the room where the pipes would be distributed being, or made to be, without openings, such as are frequently made for ventilation; the air introduced being distributed by means of these perforated pipes would with the proper pressure fill the space and produce a mass movement downward without exciting what is called a "draught" or current in any direction, except out, at the doors or crevices or windows, at will. This is strictly in accordance with natural laws. The force the animal

exerts in expiration is always downward, and a pause always succeeds it sufficiently long for the carbonic acid to pass away and cool before an inspiration succeeds, as you are aware carbonic acid, which is chiefly to be regarded in the matter, is of considerably greater specific gravity than atmospheric air and should always be expelled downward. It may be questioned whether it ever reaches the ceiling in your hall, but it probably becomes cooled a few feet above your heads, and is precipitated upon you and inhaled again with all its added horrors of uncleanliness and disease.

This plan would possess the advantage of not being very expensive, though this should be no consideration if a better plan can be carried out at greater expense.

Yours, truly,

R. H. ATWELL.

Hon. T. A. JENCKES, *Washington*.

PLAN OF WILLIAM LOUGHRIDGE.

BALTIMORE, *June* 11, 1870.

DEAR SIR: Some time since my attention was drawn by a newspaper paragraph to an effort on the part of Congress to improve the ventilation of the House of Representatives. I wrote my friend Hon. Wm. Loughridge, of Iowa, who told me that he had spoken to you as chairman of the committee having the subject in charge, and that you had kindly promised to give me an impartial hearing.

I received from Mr. Loughridge, last week, a notice that you were approaching your report, and I answered him I would send in my plan this week; I have found it impossible to do so before next Wednesday. If that will be in time I will forward my plan; if not, I beg of you not to delay your report on my account.

I think that it is entirely feasible to give entire satisfaction on that subject, but as the ablest minds in the world have failed so often, I may be mistaken. It is simply a question of enough pure air to each member of your honorable body, without respiring it, or part of it, a second time. I think the present means to force the air is sufficient and that no very expensive alteration need be made to accomplish the work.

Respectfully, yours,

WM. LOUGHRIDGE.

Hon. THOS. A. JENCKES, *Washington, D. C.*

BALTIMORE, *June* 28, 1870.

DEAR SIR: I went to Washington on yesterday, and found your favor notifying me of your return home, when I got back.

I left with Hon. Wm. Loughridge a rough drawing and specification, giving the outlines of my plan.

It was hastily gotten up, but I believe the essential points necessary to a perfect ventilation are in it. I was in the galleries for about one hour, and from the free exercise of fans, &c., I saw plainly that the ventilation in the hall below was far from satisfactory. I also observed a material change in the atmosphere from 10 to 11 o'clock, before the hall was occupied, until 11 to 12, after it was occupied. I also observed yesterday (but could not last week from the point I stood, the galleries being full, and I was never in the hall or galleries before) that there was more register surface than I expected, and that there was more egress at the ceiling than I expected to find.

To effect a perfect ventilation the force that sucks or creates a vacuum above the ceiling must be nicely adjusted so as to attract all the impure air from the hall. Evidently as the air enters the hall, as it becomes rarefied, it expands, therefore the area for egress must excel the area of aperture for the ingress of the air, or the suction force must be greater so as to give in velocity of the air what it lacks in apertures of escape.

I am strongly impressed with the necessity and great utility of using the desks or parts of the desk for registers. I can increase the register surface at each desk at least 20 feet; this would increase the present register surface to at least 4,000 feet; as a consequence a much greater quantity of air can be forced into the hall with a much less average velocity, thus obviating the serious objection to a draught.

It seems to me if one row of desks were equipped in the manner I suggest, that a fair sample of my plan could be observed. I do not think any man living can exactly foresee the result of any mode, but I think that a little experiment would insure ultimate success.

I believe the present hall can be made to give entire satisfaction at a less cost than my former estimate.

I take the liberty of clipping the inclosed editorial.

Yours, truly,

WM. LOUGHRIDGE.

Hon. T. A. JENCKES, *Washington, D. C.*

BALTIMORE, *June* 23, 1870.

SIR: In answer to your favor of 20th instant, I respectfully submit the following plan for a more perfect ventilation of the hall of the House of Representatives. I wish this to be regarded as the outline or leading principle of my plan, subject to alteration and modification, so as to be adapted to the present construction of the hall. I believe the change can be made at a less cost than $75,000, and when completed that it will give entire satisfaction in supplying to each member of your honorable body an abundance of air from the present point of supply, attempered, during all seasons of the year, to any degree Fahrenheit.

I do not propose theorizing upon the philosophy of ventilation, the component parts of air before and after respiration, the cubic feet each person requires per minute, the advantages of an upward or downward movement of the air, &c., as these are after considerations, and able articles, (arrived at by experiment,) may be found in the "New American Cyclopedia," vol. 16, page 208, and elsewhere. I simply propose a plan that, in my opinion, is adapted to the hall of the House of Representatives *as now constructed;* and that will at all times, regardless of all contingencies common to ventilation, supply to each person within the hall a sufficiency of air, capable of being increased or diminished at the will of the engineer for the hall, or of each member at his own desk, without interfering with the comfort of other members.

The nature of my invention consists—

Firstly. In distributing the air which may enter the hall in *equal proportions at each desk*, and at other points where respiration takes place, *and at a low velocity through large areas so as to prevent a draught.*

Secondly. In conveying all impure air after respiration, &c., upwardly, through a perforated ceiling of glass, or other material, in nearly perpendicular lines from the point of respiration, by creating a vacuum beyond the points of egress by suction fans, or other artificial devices, so as to regulate the upward velocity of the air from the point of ingress (near the floor) to the point of egress, (at the ceiling,) so that it shall rise at all parts of the hall in a body and move at any *graduated* velocity in feet per minute, and that the line between the pure and impure air shall at all times be nearly parallel with the surface of the floor.

Thirdly. In deflectors arranged under the desks, with universal joints, to enable each member to conveniently deflect the draught upon the floor, or upon or from his person, or in any other direction at his pleasure.

I regard the present hall of the House of Representatives as well suited for my mode, and the present steam-engines, fans, &c., as, perhaps, of sufficient power for the work. I am of the opinion, however, that the present locality from which the air is drawn to supply the hall is objectionable. At times the air is impregnated with a malarious poison arising from the Potomac, and the decomposition of animal and vegetable matter around the city. I incline to the opinion that a much purer atmosphere would be obtained by running pipes some distance northeastwardly into the country, to a point where a reliable water-power could be had to force pure air into the public buildings, at much less cost than with steam engines as a motor.

The gist of my plan is, to supply equal quantities of air to equal areas of surface within the hall, and as nearly as possible in imitation of the open atmosphere. Any system that will not deliver to each person his proportion of all the air forced within the hall must fail to give general satisfaction.

Air, like "Benton's buffalo," or projectiles, follows straight lines, unless diverted from its course, and the greater quantities flow to the larger apertures; therefore, the apertures admitting the air, as well as those giving it egress, should have areas in proportion to the pressure of the air at all points, so as to equalize the inflow and outflow of the air into and out from the hall at every point.

Air is subject to the laws of gravity, force, resistance, inertia, and momentum; but there is no natural law that induces it to search through large audiences for the purpose of administering oxygen to those in want of it; therefore, with the present plans of construction, with but few openings to admit air into public halls, the air is carried at *high velocities* beyond the point of respiration, and the greater proportion of it is not utilized proportionately by the audience.

For plan and specification see annexed paper B.

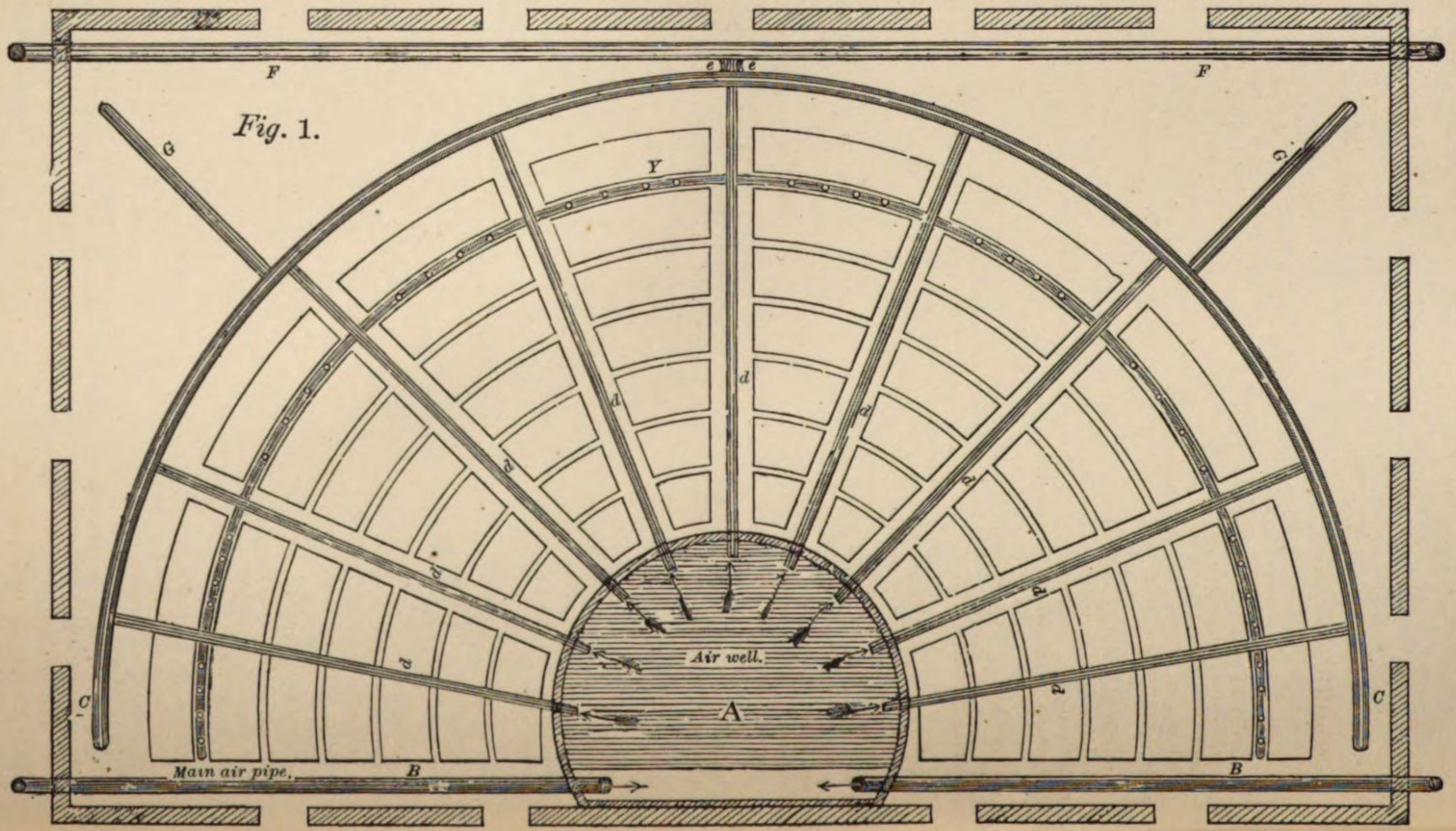
Yours, very respectfully,

WM. LOUGHRIDGE.

Hon. T. A. JENCKES, *Washington, D. C.*

WILLIAM LOUGHRIDGE'S PLAN FOR VENTILATING THE HALL OF THE HOUSE OF REPRESENTATIVES.

Fig. 1.



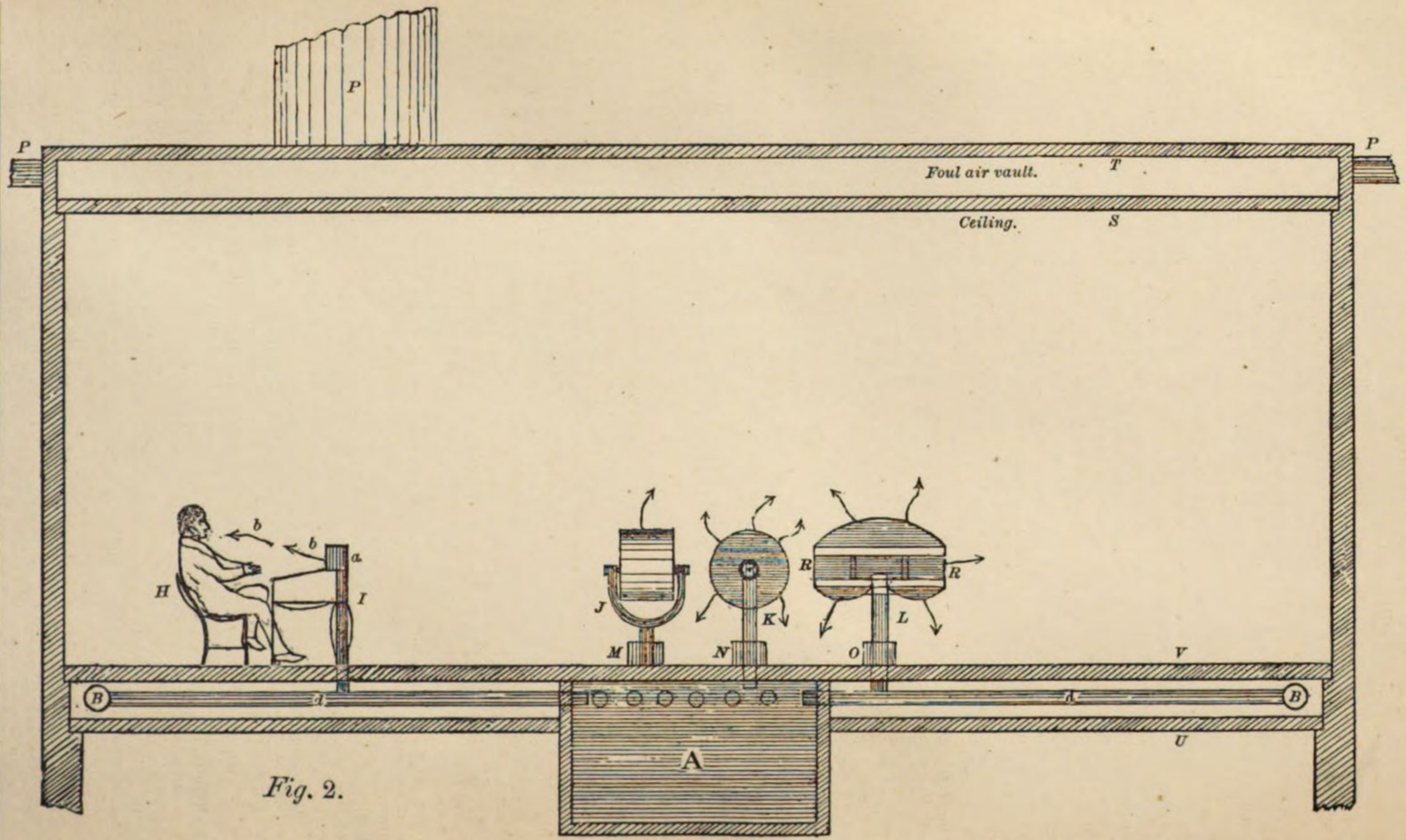


Fig. 2.

B.

A specification for a plan by William Loughridge, of Baltimore, Maryland, for ventilating the hall of the House of Representatives.

Fig. 1 shows the floor of the hall, with the honorable Speaker's chair omitted. Fig. 2 is a side elevation, showing one honorable member of the House seated at his desk. This figure may be considered as a representation of each member in his respective place, excepting that it is not on a true (too large) proportionate scale. A represents an air-well between the two floors, U V, (see side view,) immediately in front of and under the Speaker's chair. This well would be better if carried to a depth of 20 or 30 feet, so that a large body of air may be accumulated within it; and also for the purpose of attempering the air by heat or cold to any desired degree Fahrenheit. B B and F F are four main arteries, or feeding-pipes, that convey the air from the fans or force-pumps into the air-well A. C is also a large secondary feeding-pipe, that is connected (Siamesed) with F at *e*. G G are two branch pipes that connect with C, and may run into and out from registers in any part of the hall. Any of the other pipes may also run into and out from registers, so as to afford the same, or more, register surface than is now constructed within the hall. The one end of the pipes pass through the shell of the air-well A; thence through the aisles, with the other ends, into the semi-circular pipe C, affording a free circulation and communication of air from the fan to the well, or from the well to all the conduits or pipes belonging to the whole system. Y represents small air-pipes, that connect at each end with the pipes *d* under each tier or semi-circle of desks. These small arteries complete the whole system, and I aim to induce a free circulation of air through all parts of the pipes, with a pressure or tendency of the air to escape into the hall with equal force and in equal quantities at each desk. If, however, owing to the friction of the air, or other causes, the escape into the hall should not be equal to the quantities desired at each point, then by regulating the size of the escape apertures the desired quantities may be obtained.

One of the sockets M N O is intended to be screwed into the pipes Y at each desk, and all other points where air is to be admitted into the hall. These sockets may be cut off flush with the floor, recessed below the surface, or as they now show in the drawing. Within these sockets valves may be constructed, ground air-tight, to bear upwardly against the lower ends of the sockets, and held there by springs until pressed open, as hereafter set forth. I represents one of the desks with an air-chamber *a*. I propose making one or more of the legs of each desk, seat, or lounge hollow, so that the air can pass from the supply chamber into any air-chamber that may be constructed upon, within, under, or about the desk. I also lengthen the hollow legs of each desk, which may be set into the socket M and C, so that the valves in the socket M will be forced open, and the air have free circulation from the air-well to the reservoirs in the desks, &c. The angle of the reservoir *a* may be so adjusted that the air will flow in direct lines from the reservoir to the respiratory organs of each member, as shown by the arrows *b b*, or in any other direction at will. I also propose regulating the inflow of air at each desk, or other points, by cocks or valves, to meet the wishes of each member.

"In man the respirations are generally thirty-five per minute in the first year of life, twenty-five during the second, twenty at puberty, and eighteen in the adult age;" therefore different persons, at different periods, require different quantities.

The figures J, K, and L show different ways of securing a large area of canvas, silk, or other material, which can be thrown over registers to allow the air to permeate into the room at a low velocity. With these canvas registers put over apertures on the backs of the seats, in different parts of the desks, or furniture of the hall or galleries, will afford plenty of pure air without the least perceptible draft, as the surface can be made ample for the lowest velocity of air. I propose cutting apertures in the ceiling, so that the foul air shall pass into the foul-air vault T; and from this vault I extend pipe or pipes P to some desirable point of exit, as set forth in paper A.

Having in an imperfect manner set forth the leading points of my mode of ventilating the hall of the House of Representatives, I may send some other papers more explanatory of the whole plan. I shall not annoy you, however, with persistent and prolonged effort to induce its adoption; but will be pleased at all times to make further explanations, and, with the assistance of your able architect, make any experiments on a small scale to demonstrate the truth of the whole. With this plan the profile of the floor can be maintained as it is at present, and there will be but slight alteration required at any point. Of course all the pipes shown in the ground-plan will be covered, and if the legs of the desks are availed of to convey and distribute the air around each member, the change will hardly be perceptible; but that the result will be as near perfect, or lead to perfection, I have not a single doubt.

I present this plan to your honorable committee and to the honorable Congress of the United States with a hope that I shall have your coöperation.

Very respectfully, yours,

WM. LOUGHRIDGE.

SUGGESTIONS OF ROBERT BOYD.

EVANSVILLE, *January* 2, 1871.

DEAR SIR: By this day's mail I forward you some pamphlets on an economical system of ventilation, on which I received a patent in November, 1867, and have used it with very satisfactory results. Being anxious to bring it into more general use, I recently visited New York and Massachusetts, (from whence I have just returned,) and exhibited my model to several scientific gentlemen, architects, builders, and others of high reputation, and it received their hearty and universal approbation. Having met with this encouragement, I have been induced to present it still further, and through the kindness of my esteemed friend Hon. John C. Shoemaker, (whose letter please find inclosed,) I take the liberty, most respectfully, to ask you to do me the favor to bring my system of ventilation to the attention of the congressional committee on that subject. I could furnish you many testimonials in favor of this system and its construction; but I prefer to present it on its own merits, believing the gentlemen that are on that committee to be fully capable of judging its merits, and deciding whether it is worthy of their approval and recommendation or not.

For a moderate sized room, one of these ventilators is sufficient; for large rooms, as many may be used as will be necessary for thorough ventilation. I make a slight difference in their construction for hospitals from those used in other places, but no difference in the plan or system. Simplicity, economy, and utility are its chief points.

If the honorable committee should give it a favorable consideration, and require any further explanations in regard to it, I will be glad and happy to respond to their call at any time.

I am, very respectfully, yours, &c.,

ROBERT BOYD.

Hon. WM. E. NIBLACK, *Washington City.*

The inclosed letter of Robert Boyd, esq., with accompanying pamphlet on ventilation, is respectfully referred to Hon. Thomas A. Jenckes, chairman of the Committee on Ventilation of the House of Representatives.

W. E. NIBLACK.

WASHINGTON, D. C., *January* 9, 1871.

(This proposition refers to a pamphlet containing a description of an apparatus patented by Mr. Boyd, but there was no proposition to adapt it to either hall. As any attempt to use it would require considerable alterations and a new and expensive apparatus, the committee did not prosecute their inquiries in this direction any further.)

MEMORIAL OF A. J. MARSHALL, ON THE VENTILATION OF THE TWO HALLS OF CONGRESS.

To the Senate and House of Representatives of the United States:

The memorial of A. J. Marshall, a citizen of the State of Virginia, respectfully represents, that he has for many years made the art and science of ventilation the subject of his earnest thought and most labored investigation; and he confidently affirms that he has invented improvements upon existing plans or systems, as practiced here and in Europe, which will advance the art of ventilation to a stage of excellence not heretofore attained.

Your memorialist claims, in an especial manner, to have studied the character and philosophy of the system on which the two halls of Congress have been ventilated. He has no criticism of his own to offer, but will refer to the luminous and comprehensive reports of joint committees of Congress, made within a few months past, on the ventilation of the Capitol. In those reports will be found an able exposition of the deficiencies and inherent vices of the ventilation now given your legislative halls.

From these elaborate reports the mortifying fact is gathered, that a system of ventilation has been imposed upon the two Houses of Congress, from the errors and vices of which the legislative halls of Great Britain and France, after costly struggles between opposing systems, continued through a score of years, have just been emancipated. Thus it appears that a hurtful and erroneous system of ventilation, a system exploded and abandoned because of its wrong philosophy and practical inefficiency by the most enlightened nations of Europe, has been adopted here, and in face of this warning experience has been foisted upon the two halls of Congress.

Nor is the adoption of the discarded systems of the Old World the only blunder bearing on a good ventilation which these able committees have exposed and disclosed for correction and amendment. Their reports demonstrate that the evils of this exploded system of ventilation have been greatly aggravated and multiplied by the ex-

periment of lighting these spacious halls through an immense glass dome placed in the roof, and expansive glass ceilings placed over each, thereby subjecting the halls to the influence of a direct solar action upon and through this vast area of exposed surface.

The conclusion to which these committees come, after most thorough and searching scrutiny, is that the two halls of Congress can never be properly ventilated, unless the structure of the halls is altered in conformity with the original plans of the architect, and unless the present obsolete plan of ventilation now in use at the Capitol shall be abandoned, and the modern ventilation, sanctioned by the experience of England and France, shall be substituted therefor.

In this judgment of your committee the memorialist entirely concurs; but he must be permitted to state that this modern plan of ventilation, although a great improvement upon the ventilation now furnished in your halls, is itself, in some important respects, defective and inefficient. It is therefore matter of gravest interest that remedies for these imperfections shall be discovered and applied.

Your memorialist claims to have discovered such remedies, and by a new arrangement and combination, and by novel and simple devices, he claims to have invented a new plan or method that will improve and perfect the proposed ventilation, and secure within the halls of Congress a pleasant and wholesome ventilation, adapted to all the changes of our variable climate.

Your memorialist, in anticipation of the action of Congress on this interesting subject, had prepared papers explanatory of his invention, which he had designed to submit to a committee, if one should be appointed. He begs leave to incorporate these papers (as Appendix A and B) to be taken as part of this memorial. They disclose, as far as it is proper to be explained in a memorial, the nature and principles of the invention.

Your memorialist respectfully asks that his petition may be referred to a committee, with instructions to investigate the subject, and report what action in the premises will best subserve the public interest.

Your memorialist will ever pray, &c.

A. J. MARSHALL,
Warrenton, Virginia.

APPENDIX A.

To the Honorable Chairman, &c.:

GENTLEMEN: I ask your attention to a subject of grave importance, to wit: the wholesome ventilation of your legislative halls. It is conceded on all hands that the existing plan of warming and ventilating these halls has proved to be an utter failure, from the evils of which our national legislature must be rescued.

A careful study of the vices and inefficiencies of this ventilation at the Capitol, and, indeed, of all the plans or systems of ventilation hitherto practiced upon, in Europe as well as in the United States, has suggested to my mind remedial devices, that will improve and largely advance the science of ventilation, and relieve it from this opprobrium of inefficiency.

These devices constitute a "new method" of ventilation, which I have recently caveated, and to which I now ask your attention. As applications for foreign patents are yet depending, it is inexpedient to make full explanations of the peculiar devices of this new method, except to the committee in the confidence of consultation. I propose, however, in this paper to foreshadow some of the leading and novel results of the new system.

First. The air for ventilation will be drawn from a point of great altitude—a point high above the region of the local miasmas of the city or of the Potomac, and beyond the range of the warmth that radiates from the earth's surface. Thus will be secured for respiration in the halls an atmosphere of absolute purity, which will also, in summer heat, be very much cooler than will be the lower strata of air.

Second. This pure air will be attempered and prepared for the halls by simple devices, and in a manner more manageable and convenient than at present. It will then be sifted in at the ceiling, in accordance with the original design of the Architect of the Capitol Extension, and in conformity with the received systems of ventilation now prevalent in Europe.

Third. By a novel device of marvelous simplicity this ventilating air will be forcibly detained and accumulated within the halls until it has attained a compression or condensation therein of, say, five or ten pounds the square foot, (not the square inch!) or of any degree of pressure that experiment may prove to be best and most sanatory. At such point of condensation the condensing device will yield to the pressure, and the foul air will be forced to escape through the then open registers on the floors of the halls and the risers of the galleries.

It is to the greater purity of the ventilating air, and in this novel feature of meas-

ured condensation in the halls, that the greater excellence of the new method of ventilation may be mainly attributed. The great benefits of a pure air in ventilation will need no illustration; but the admirable results achieved by this novel feature of condensation are not so apparent, and therefore I propose to make a succinct enumeration.

The first result of a measured and regulated compression of air within the halls will be very much to improve their acoustic capacities. The voice of the speaker, in its every intonation, without increased strain on his lungs, will be heard at every point of the halls and galleries; for it is a well-established truth that the more dense the medium, the more perfect always will be the transmission of sound. In addition to this effect, it is verified by eminent physiologists and physicians that condensed air has a tendency to brace the nerves, improve the digestion, and in a measure to energize the mental functions.

A few years since, the cheering and bracing effects of condensation upon the human system formed the subject of a series of interesting physiological experiments made by a Mr. James, who thus writes:

"When a person is placed in condensed air, he breathes with a new facility. He feels as if the capacity of his lungs was enlarged. His respirations become deeper and less frequent. He experiences in a short time an agreeable glow in his chest, as if the pulmonary cells were becoming dilated with an elastic spirit, while the whole frame receives at each inspiration fresh vital impulsion. The faculties of the brain get excited; the imagination becomes vivid; and the ideas flow with delightful facility. Digestion is made more active, as after gentle exercise in the open air, because the secretory organs participate immediately in the increased energies of the arterial system, and therefore there is no thirst."

It is not designed, however, to press this condensation to the extent of these experiments of Mr. James; hence I have used the expression that condensation will have "a tendency to brace the nerves and energize the system." The device that bestows upon the science of ventilation this new and valuable faculty, as has been said, will give any measure of condensation, large or small, that may be found sanatory and pleasant.

A third and an elementary change, also consequent upon this condensation, arises from the manner of its action on the mass of resident air found in the halls when ventilation commences. Under all existing systems of ventilation, this resident air is found to be an obstruction to an equable temperature and hydration throughout the halls. The new air, attempered and moistened, is at present forced in upon this great body of resident air in the halls, and although of a different temperature, the two are expected to commingle in one homogeneous mass of a uniform temperature and moisture. Thus, under present systems, the halls are made to serve as grand laboratories or mixing rooms for unequal temperatures. We find, as resulting from these unreasonable violations of atmospheric laws, that unequal temperatures and currents will prevail all over the halls.

The effect of the proposed condensation will be to remedy these objectionable results of existing systems of ventilation. Under the new method of ventilation, in cold weather, when the new air enters the hall or room, being lighter than the cool resident air, it floats near the ceiling and forms in horizontal strata, which, by constant accretions from the fan, accumulate and wedge downward upon the resident air of the hall, until the pressure has so multiplied as to force open the obstructing device and give free exit to the foul air. Then, (when the obstructing device has yielded,) as strata of new air are driven in at top of the hall, equal strata of old resident air escapes at the floor, until all the resident air has been expelled, leaving the entire air of the halls one homogeneous mass.

A fourth result to spring from condensation is to be found in its uniform and assured expulsion of all offensive air and gases that always will attend a crowded house and galleries. The movement of the air will be from the ceiling to the floor, not in streams or currents, but in a steady downward progress, of such force, however, as to deflect the breath and warm emanations from the persons of the crowd down toward the floor, thereby always presenting an untainted air for respiration.

A fifth resultant of the "new method" will be found in its large economy, it ventilating the halls with one-fourth of the volume of air now required. At present 50,000 cubic feet of air is forced into the hall of Representatives alone. All control and direction of this air is abandoned as soon as it enters the hall. It is then left to its own vagaries to get out as best it may, through chimneys, doors, or the registers on the floors. Experience has shown that very little escapes at the floor, and that foul air will accumulate on the floors and in the galleries.

On the other hand, under the "new method," a perfect command and direction of the air within the hall is maintained all the time, down to its final expulsion. The enormous waste of the present system is saved in the well-ordered appointments of the "new method." One-fifth of the air now required will give a better ventilation to the halls, and consequently four-fifths of the cost of warming and moistening the air for ventilation will be saved.

A sixth result to flow from this novel device for condensing the air in the uses of ventilation is that it will render the ventilation of the entire Capitol and of every room and space within its walls matter of easy and convenient accomplishment. Not only can the halls, the court-rooms, library and committee rooms be pleasantly warmed and ventilated, but the damp and dark vaults in the basement, now useless and mere generators of unwholesome vapors, may be made dry, and being thoroughly ventilated will become safe and valued depositories of the public archives. These benefits may also be extended to all the departmental buildings, and to the presidential mansion, if its adoption in the Capitol is successful. Already have the accumulations of Government documents overcrowded the rooms of these buildings. The demand for increased accommodations will compel the expenditure of millions for new structures; but the spaces in these buildings acquired and utilized by introduction of this improved ventilation will postpone to a distant day the necessity of such expenditure.

One other sequence of this improved ventilation and I have done. It will be found that the condensation of air within the rooms of a building will effectually protect the records and folded papers from the intrusion of the gritty dust which now eddies in upon them from the street. The compression of air within the rooms will cause an outflow through every crack and crevice and opening that will resist and repel the entrance of outside winds.

I have given these general effects or results of the "new method" without explanation of details. I will only add that "the new method" has been submitted to the criticism of the first and most eminent science of the country, (members of the Coast Survey and others,) and it has been approved by their judgments. I must now conclude by a brief reference to some alterations in the structure of the two halls of Congress, which the blundering errors of those who superintended the building of the Capitol extensions have made necessary. The wretched ventilation now inflicted on the two houses of Congress is traceable to these errors, which are the more intolerable because they were imposed on the public in violation of the elaborate and enlightened plans furnished for their guidance by that eminent engineer and architect, Charles F. Anderson.

The designs for the two halls as originally devised by Mr. Anderson would have given to the nation halls of the most perfect architectural model in the world. Anderson, who was a thorough architect, and had matured his professional taste and skill by extensive observation and study of the best models in Europe, furnished the plans and drawings for the Capitol extension. Before his plans were adopted, they had been submitted to the scrutiny of the President of the United States, to the heads of departments, committees of Congress, and to boards of learned men, such as Professors Bache, Henry, and others, for their well-considered opinions. After long and anxious examination, these eminent officials and learned savans approved the designs and authorized the work to be executed in accordance.

By what authority the superintendent of the Capitol extension departed from these designs of Mr. Anderson I have not seen; but it is certain that in execution of the work the architectural symmetry of the halls, as Anderson had planned them, was ruthlessly violated, and that all his well-studied principles of acoustics and of wholesome ventilation were subverted and reversed.

By Anderson's plan, the larger hall was to have been of about 52 feet in height; the superintendent gave it about 36 feet. Anderson designed to admit the light into the hall through side windows placed overhead, as are the windows of the rotunda, and to place the present glass ceiling above these side windows, thereby giving to the hall a lofty and magnificent appearance, and affording a light that could always be regulated by blinds and shades. The superintendent has dwarfed these lofty and beautiful proportions, and has given to the hall a flat and squat appearance, repulsive alike to good looks and a chaste architecture.

These outrages upon the admirable designs of Mr. Anderson were not, however, confined to violations of good taste and architectural appearance; with a ruthless hand the superintendent disregarded and reversed the well-studied plans of Mr. Anderson for the admission both of light and air into the halls. As just said, he dwarfed their height by 16 or 17 feet, thereby dispensing with side windows, in lieu of which he admitted light into the halls through spacious glass domes with skylights in the roof.

The glass skylights over the Senate chamber have an area of more than 3,400 square feet, and those over Congress hall present a surface measure of about 5,000 square feet. Thus, in reckless subversion of Anderson's elaborated plans, the Representatives of the people are now exposed uncovered to the terrible gaze of our summer's sun.

A second and a radical departure from the well-considered plans of Mr. Anderson, and not less deleterious in its effects, was in the reversal of his mode of admitting the ventilating air into the two halls of Congress. Anderson directed the air to be driven in at the ceiling, and to be forced downwards through the halls, and expelled through the floors. This was in accordance with the systems now in use in England and other European governments. The superintendent, however, in reversal of this system, and in face of the present approved practice, went back to the old discarded system, and

forces the air in at the floors, to be driven out at the ceilings. It is deemed to be of absolute necessity to any wholesome plan of ventilation that these elementary defects of structure shall be amended. If the halls be not protected from the solar influences of those spacious skylights, there can be no system of ventilation that will render the halls endurable in summer's heat; and the effects of this vast glass surface in the winter are also injurious to good ventilation and equable temperatures. I content myself, however, by a simple reference to the lucid and concise report of Senator Buckalew, as chairman of a joint committee on ventilation, ordered to be printed July 18, 1866.

I will suggest that the old hall of Representatives be fitted up for occupation of the Senate until the necessary alterations of the Senate chamber can be made. The lower House can then in like manner vacate their hall for the same purpose.

APPENDIX B.

To the honorable chairman, &c.:

GENTLEMEN: There are points and features of the new method of ventilation I advocate for your adoption in the two halls of Congress that require to be examined and discussed before it can be expected you will give the plan a thorough approval. There always will be doubts and misgivings as to new and untried theories in their first practical operations, and hence I desire to meet and answer before you certain difficulties of the plan which have embarrassed my own mind in reasoning to my present judgment.

The first point of solicitude in all plans of ventilation is to secure an abounding volume of pure, untainted air for breathing purposes. The new method, however, presents conditions and movements of the ventilating air unknown to all existing systems, and therefore former methods will furnish us no means of judging what volume or velocity of air is best in establishing good ventilation under the new plan.

Under the devices of the new system an absolute empire over the ventilating air is claimed and acquired. Its volume or quantity, its velocity of movement, its course or direction, may all be appointed and accurately defined. In a word, we must learn to know that the air can be made to yield to the coercion of the fan the same implicit obedience and ductility that gas does to its gasometer.

As a consequence of this high command and implicit obedience of the ventilating air, any measure or volume that is needed may be driven in at the ceiling of the hall, and, being denied all egress except at the floor, its course or direction is necessarily downward. Being in cold weather of a warmer temperature than the resident air, it will spread in the top of the hall in layers or strata, and from the continuous accretions at the ceiling these strata of new air, in swollen force, will continue to wedge downward in the hall, and impacting the lower air upon the floor, will reach a condensation in the hall that will force open the obstructing device placed in the main foul-air tube, and thus open for the air a free passage "out of doors."

Such is the mode of action under the new method, from which it is evident, as just said, that complete command of the ventilating air, in its volume or quantity, its speed or velocity, and in its course or direction, can be achieved.

With such supreme power in our hands we have to consider how it shall be used so as to effect the best ventilation in the halls of Congress. I intend, by best, that ventilation most wholesome and pleasant, and which, at the same time, will most improve the acoustics.

It is in this novelty of the proposed condensation or compression of the air in the hall that the most beneficial results of the new method of ventilation are to be found. The improvement of acoustics, the evenness of temperature, and of hydration over all parts of the hall, and the great economy in the volume of the air needed for ventilation, are resultants of this compression, which innovates on all existing systems. It is all-important, therefore, that all doubts shall be removed as to the ready practicability of achieving a compression of air within the halls to any exact pressure that experiment may show to be proper. I will now, therefore, address my explanations to this point.

First, then, what is the volume or quantity of new air to be forced into the hall that will suffice to produce a pressure of eight pounds to the square foot?—that being the pressure supposed to be proper for the purposes of the best ventilation.

There is one starting point or basis-fact from which a solution of this inquiry may be reached. The weight of the atmosphere we know to be fifteen pounds on every square inch, or 2,160 pounds to the square foot. Thence we derive the fact that two atmospheres forced into one and the same space will cause a pressure of 2,160 pounds to the square foot within such space.

From this fact, as a starting point, the measure of air required to cause a condensation of eight pounds to the square foot, within the House or Senate chamber, may be accurately computed.

The dimensions of the Representatives hall are 139 feet by 93 in width, and 36 in height; those of the Senate chamber are 113 in length and 80 in width, by 36 depth. This gives 475,372 cubic feet as the solid measure of one hall, and 325,440 as the solid measure of the other hall. We will say, in round numbers, that there are 500,000 cubic feet of air in the House, and 350,000 in the Senate chamber. The inquiry then will be to know how many cubic feet of new air, forced in upon these halls, (supposing them both to be air-tight,) will cause their condensation to eight pounds the square foot.

Now, it is very clear that 500,000 cubic feet of air forced into the hall of Representatives, in addition to the 500,000 already there, would bring two atmospheres within one and the same space, and would cause the pressure of 2,160 pounds to the foot within the hall. Then, by the rules of proportion, 500 cubic feet thrown into the larger hall would produce two pounds to the foot, (discarding fractions,) and eight pounds would require four times as much, or 2,000 cubic feet for the larger hall. A similar calculation will show that 1,400 cubic feet of air forced into the Senate chamber will give the desired pressure of eight pounds *there*.

These low figures, however, it must be observed, are not practically true, because it is not true that the halls are air-tight. Many doors leading to the halls will invite the escape of the condensation, besides other casual openings that will disturb the appointed downflow of the air. These are the practical troubles in the way of condensation, which I desire to examine closely with a view to measure their exact weight, and to show that they oppose *apparent* and *specious* difficulty rather than *real* obstruction to the practical accomplishment of this condensation, which I consider is the most essential feature of the "*new method*."

Every precaution will, of course, be adopted to forbid the escape of the air from the halls, except through the exits provided on the floors. The chimneys will be sealed up, the windows will be weather-stripped, and the doors of the hall will be doubled as in winter—so that, when opened for the entrance or departure of persons, only as much air will escape from the halls as will cause an equilibrium of pressure in the space between the doors and the air of the halls. Suppose this space between the doors to be a room measuring 1,000 cubic feet. Calculation will show that four cubic feet of air escaping into it from the hall will condense this space equally with the air of the hall! Thus we see the precise measure of the wastage from the opening of a door. Suppose there are 50 doors entering the hall of Congress and its gallery, and that each door is opened once a minute, the wastage from doors would only be 200 cubic feet per minute even then. [I have since ascertained that there are only 40 doors.]

If we suppose that the wastage from the hall from all other sources combined is equal to this wastage from the doors, the sum total of the wastage will only be 400 cubic feet of air per minute. This surely does not form an insurmountable difficulty. An additional 400 cubic feet, thrown in by the fan, gives the full compensation for this wastage. If, therefore, the fan be worked up to 2,400 cubic feet the minute, instead of 2,000, the trouble is done with. But we shall see that I contemplate furnishing 8,000 cubic feet of air per minute to meet other purposes of the plan; so that all doubts must yield on the practicability of keeping up the condensation.

The next point of difficulty to which I invite discussion is to the quantity or measure of the air per minute needed in the hall, for wholesome ventilation. Will 2,400 cubic feet of fresh air a minute suffice; and, if not, what quantity or volume per minute will be ample supply? By the present plan it will be remembered that 50,000 cubic feet of air per minute are thrown into the House to ventilate it. The idea of reducing this vast supply to 2,400 feet a minute is, I must admit, suggestive somewhat of a smothering sensation. Let us, however, examine this branch of the subject in a spirit of calm reason and judgment.

As remarked in the beginning of this paper, this new method of ventilation presents conditions and movements of the ventilating air unknown to all existing systems. These movements are novel, anomalous, *sui generis*. By all existing plans the ventilating air is abandoned to its own course from the moment it reaches the hall. All control and direction of it is *then* lost. It is *there* left to relieve its own accumulations, through doors or windows or chimney, and, if it will vouchsafe so to do, it *can* pass out at the exits on the floors, and carry with it the foul air collected *there*.

But experience has taught that this air has a nature of its own to consult; and, unless it be coerced in some way, it will not voluntarily seek these small and remote foul-air holes for escape when larger and nearer openings offer it free passage. Consequently very little air now passes from the hall through the apertures on the floors.

The theory of the new method is in strong contrast. It asserts and maintains an empire over its ventilating air *all the time*, from the blade of the fan down to its final expulsion through the foul-air conduit into open space. From the forced entrance of this air into the hall, its every movement, its velocity, and its downward course in measured strata, are all prescribed, and by intelligent appointment. In cold weather, being of warmer temperature, and consequently lighter than the air it finds in the hall, it will float at the top and spread in horizontal strata, which by constant accretion from the ceiling will wedge downward, and will impact and drive the resident

air before it; having no outlets, save those on the floor, the whole body of the air will settle down in a measured and regulated order.

The theory of the new method, moreover, requires that the air in this downward movement shall have speed and force enough to carry with it to the floor the warm breath and the offensive emanations of the human bodies, and thus preserve untainted for inhalation the higher air. This is an eminently distinctive feature of the new method. The warm and foul emanations of the crowd cannot rise to corrupt and taint the respiratory air. Once exhaled, the same air is never again presented to be taken into the lungs.

From these causes, as has been said before, lights drawn from former systems of ventilation give no data for estimating the quantity or volume of air required under the new method. It must not be overlooked, however, that the new method possesses all the power to command the air in quantities that existing methods possess. The only question, then, I wish to discuss is, what is the least quantity of air that will give full and ample ventilation? If it requires 50,000 a minute, we have it at command; if 5,000 a minute be enough, there will be great convenience and economy in the discovery.

This brings up for consideration the subject of acoustics, which should ever be connected with ventilation; and as sound is known to be more perfectly transmitted the more dense the medium, the condensation proposed for the two halls must give the new method an eminent preference. But freedom from currents and all practicable stillness is also conducive to good hearing, and must be carefully cherished in the system to be adopted. It is desirable, therefore, to give the air of the hall in its downward movement only such speed as may suffice to deflect the warm breath of the crowd and carry it down to the foul-air exits on the floor.

It will not be time wasted to pause at this point and philosophize a little on the unwonted and abnormal purposes aimed at in this new method of ventilation. To drive the warm human breath dowward, and thus to reverse the course of a warmer and lighter air, outrages all our prejudices and shocks our personal belief. It is best, therefore, to subject the proposition to the test of a strict analysis, that no grudging credence may be given to this most important feature of the new method.

The impulsion of the human breath, when it first issues from the nostrils, is almost vertical towards the ground. When it issues from the mouth, by reason of the dental and labial structure, there is given to the breath a horizontal, or perhaps a slightly downward impulsion. These are facts visible to any one in frosty weather. It is also noticeable that the breath begins to rise when the force with which it leaves the mouth has abated. This we know is due to the warmth of the breath compared with that of the air, the warmer being also the lighter. For the same reason the air in immediate contact with the human body assimilates with its temperature and rises, carrying upward the impure emanations of the skin. From these sources of taint the air in the higher parts of a crowded room becomes offensive, and if breathed over again would be unwholesome.

Now if the movement of this exhaled air be traced, (and it may readily be seen in cold weather,) it will be found to be very gentle. It rises slowly, and is deflected in any direction by the slightest currents. The smoke puffed from a pipe or cigar well illustrates the gentleness of the movement, and the ready ductility of the warm breath.

It may be seen to stream downward even from the slightest current of the draught of the chimney. From these illustrations it is clear that a very slight movement of the air in the hall, in the direction of the floor, will carry with it the expired breath of the crowd, and also the offensive emanations. Whatever, therefore, be the tendency of the breath upward, if met by a downward movement of the air stronger than such tendency, the breath must deflect and be carried downward, leaving the higher air pure and untainted.

I am satisfied that a current of four inches per minute will suffice to conduct these impurities of the crowd to the floor, and it remains to show what volume of air per minute forced in at the ceiling will cause a down movement of air in the hall having a speed of four inches the minute. On this point I will submit the following estimates:

The area of the hall of Representatives at the ceiling (including the galleries) is $139 \times 93 = 12{,}900$ square feet. One foot in depth of this area will measure 12,900 cubic feet, and if 12,900 cubic feet of air per minute be forced in at the ceiling, it is obvious that the same measure will be wedged out at the floor, (there being no other outlet,) and that thus a downward movement of 12 inches a minute will be effected in the whole body of the air in the hall. If, therefore, the fan shall be worked to drive 12,900 feet the minute into the hall, the downward flow of the air will be at the speed of 12 inches the minute, which is three times the velocity called for. I am, therefore, warranted in the conclusion that for the purpose of carrying downward the breath and other impurities of the crowd, and of protecting the overhead air from all such offensive taint, 4,000 cubic feet of fresh air per minute will be found an ample supply.

The last point I wish to discuss in this paper is, whether the 4,000 cubic feet per min-

ute will suffice to supply the crowd on the floor and in the galleries with breathing air and an abundant ventilation. In considering this part of the subject, we must hold in view all the conditions and movements of the air induced by the action of the new method. We must remember that it is guarded against all taint or corruption of the higher air, as it will be continuously presented for inhalation; it has forced downward the breath and the warm emanations of the skin, and in fine it only leaves for calculation the quantity or bulk of air required for the actual inhalation of the crowd. On this point I present the following estimates:

The House is overcrowded when there are 1,000 persons in the galleries and 500 on the floor. The Senate never contains this number. All the books tell us that a healthy man draws into his lungs 25 cubic inches of air at a breath, and that he inhales 20 times a minute. There are 1,720 cubic inches in one cubic foot; so that the man actually only needs for inhalation one cubic foot of air every nine minutes. This shows that 500 cubic feet of air a minute will measure all the air actually taken into their lungs. This, therefore, is all that is required for breath, as it is the full capacity of their lungs. But a greater volume than this, however, will not be wasted; for being constrained downward to the exits on the floor, it will remove in its descent the air next the body, which has been warmed by that contact to the temperature of 98°, and will substitute its own temperature of 68°, thereby greatly refreshing and invigorating the whole system.

I have thus shown that 500 cubic feet of air is enough for inhalation; 2,000 cubic feet for the condensation; and 4,000 per minute will suffice to produce the down movement of the air at four inches the minute. But to insure all these objects, let us force in upon the hall 8,000 feet the minute, if it be found on trial not to injure the hearing within the hall.

I have presented these views to show how unreal are the apparent difficulties which oppose the adoption of the "new method" of ventilation. I need say nothing of its great economy in requiring the use of about 5,000 instead of the 50,000 cubic feet now demanded by the present system.

IMPROVEMENT OF THE HALLS OF CONGRESS.

February 20, 1865, Mr. Buckalew submitted the following report:

The Joint Select Committee of the two houses of Congress appointed at the last session to examine into the present condition of the Senate chamber and hall of the House of Representatives, as regards lighting, heating, and ventilation, and their acoustic properties, and the defects and disadvantages existing in the same, make the following report:

That pursuant to the resolution of appointment they have obtained from Charles F. Anderson, architect, a statement of the principles upon which he proposes the improvement of the halls of Congress, as regards the particulars above mentioned, and also estimates of the expense that will attend the proposed alterations, and they append the said statement and estimates to this report. They have also obtained plans and drawings of the proposed changes of the halls and Capitol wings, as authorized by a clause of the miscellaneous appropriation act of 2d July, 1864, which are deposited with the secretary of the Senate for examination by the members of both houses. The committee have also taken the voluntary testimony of a number of witnesses upon the several subjects covered by the present inquiry, to enable them to come to intelligent conclusions, and they now beg leave to submit that testimony in connection with this report for the information of Congress.

The committee propose, in the first place, to examine the several defects alleged to exist in the present arrangements relating to the halls of Congress, and particularly those relating to their ventilation; next to state distinctly the character of the changes proposed; and, lastly, the time, manner, and cost of their accomplishment.

First, then, as to existing defects:

PLACE OF OBTAINING AIR.

1. The air for ventilating the halls is now taken from the levels of the terraces, between the wings and the old Capitol building, on the western side. To these situations much dust and other impurities are carried by the action of winds, subjected to the influence of eddies, and taken with the air through the ventilating passages into the halls. And in warm weather the terraces and adjoining walls, becoming heated, affect very considerably the temperature of the air obtained. Reference upon this point of the inquiry is made to the testimony of Dr. Antisell, and Mr. Forney, the engineer in charge of the ventilation of the House of Representatives. It is manifest that the air

introduced into the halls should be obtained from places not subject to the accumulation of impurities, or to the undue production of heat.

OVERHEATING THE AIR.

2. By the examination of the engineer in charge of the heating and ventilating department of the Senate chamber, it appears that the air, on its passage to the chamber, is heated exclusively by steam, introduced into mazes of pipes for the purpose. Hot water is not used, and it seems certain that the air is overheated, and thereby subjected to injurious changes. Professor Wyman says:

"In all cases in which it may be necessary to warm the fresh air required to be supplied to an inhabited room or cell, it is essential to health that the increased temperature should be derived from a moderately-heated surface; hence the advantage of using water as a medium of heating. In a hot-water apparatus of ordinary construction the temperature of the surfaces, when exposed to a current of air, will never reach the boiling point, and it is obvious that they may be regulated in any lower degree that is likely to be useful."

Among the conditions prescribed for the warming apparatus of Pentonville prison—the "model prison"—was the following:

"That the entire radiating surface should derive its temperature from the circulation of hot water, and that it should be of such an area as would maintain a temperature of 60° in the cells when the external atmosphere was at 32°; further, that under ordinary circumstances the temperature of the heating surface should not range above 100° to 120° of Fahrenheit."

This point of overheating the air demands amendment, which must be secured in any new arrangement regarding ventilation.

DEFICIENT MOISTURE.

3. But one of the most manifest and material defects in the ventilation of the Capitol wings is the exceeding aridity of the air supplied. To this point the committee have given particular attention, and the information obtained upon it is most conclusive in condemnation of the existing arrangement. Both health and comfort are disregarded in forcing into the halls air containing but one-third to one-half the moisture or vapor of water required at the temperature to which it is raised. It is to be taken for granted that the natural constitution of air at any given temperature is better adapted to life and human comfort than an artificial one can be, and it is to be secured as nearly as possible in all structures designed for human occupancy. In a free atmosphere the demand for moisture caused by increased temperature is fully supplied from natural sources. But in moving air through a confined space destitute of watery vapor, and subjecting it on its passage to the action of heat, while its character must undergo a change as to temperature and density, there will be no corresponding change in the amount or proportion of moisture it contains. In other words, moisture must be imparted to it by artificial means, if its true natural constitution is to be maintained. That a principle so well known and so indisputable should have been ignored in the ventilation of the Capitol is most surprising, and indicates, if it does not prove, incompetency or indifference to duty in the superintendency of the building.

Doctor Reid observes that "the moisture in the air is not to be regarded as an adventitious ingredient, but rather as an essential component of atmospheric air. It requires in general to be added to air in cold climates in winter in proportion to the temperature communicated to it before it approaches the person. If cold air be heated in spring and summer by natural causes, it absorbs a proportional share of moisture in general from the surface of moist ground, lakes, and rivers, or from the ocean, and thus reaches the system in a congenial condition. On the other hand, if cold and dry air be heated artificially without receiving moisture its increased power of absorbing moisture renders it offensive to the system."—*Reid on Ventilation, secs.* 341–43.

"The amount of evaporation into equal spaces is dependent upon the temperature, and increases considerably on a small increase of heat." Between 32° and 100° the amount of evaporation is doubled by the addition of about 20°, or at 52° it is double that of 32°. * * * In winter the air, when extremely cold, is proportionably free from moisture. The true time, accordingly, when moisture ought to be applied to air is not when it is warm in spring and summer, but as it is warmed artificially in winter. The temperature and moisture of the air are certainly the most important circumstances that demand attention after securing air of sufficient purity." (*Ib., secs.* 350, 436, 511.)

Professor Wyman says that "air holds in solution a variable amount of aqueous vapor, limited by the temperature. The influence of this agent upon the human system is exceedingly important. The lungs are continually exhaling moisture, its quantity depending upon the hygrometric state of the atmosphere. If the air be too dry, the lining membrane of the lungs, throat, and mouth may be deprived of necessary moisture so rapidly that an uncomfortable degree of dryness, or even inflammation

may be induced. Undoubtedly the best constitution of the air is that which nature affords. During the summer months the air has gradually increased in temperature, and appropriated from rivers and other sources that amount of vapor which is required. In our houses we should imitate the same course, and, heating air from below 32° to 70°, provide a sufficient supply of water." (*Wyman on Ventilatton*, pp. 190, 191, 196.)

"Air changed in temperature by warming without increased moisture is apt to produce unpleasant feelings and painful sensations in the chest, which are often attributed to too great heat. In very dry air the insensible perspiration will be increased, &c. The objection lies against *heated* air, no matter how heated. Stoves and air furnaces with their red-hot surfaces are undoubtedly worse for the air than hot water apparatus, which never scorch it, yet the latter may pour into our apartments a withering blast of air at 150°, which may be potent for mischief. The only way that hot air can be made healthful and desirable is by an effectual plan of artificial evaporation." (*Dr. Youmans's Handbook of Social Science*, 308.)

Appended to this report is a paper furnished the committee by Dr. John A. Rowland, showing the capacity of air for moisture at different temperatures, both as to volume and weight, to which reference is made for further information upon the present point. The figures are obtained from works of reputation, and they show that the air of the halls during the winter and spring requires two or three times the amount of moisture actually contained in it; for its aridity, caused by heating it, is modified in no way whatever, not even by leakage of doors and windows, as in the case of an ordinary apartment.

But what determines the condition of the air in this respect with perfect certainty is the examination given it by Dr. Wetherill, of the Smithsonian Institution. He examined the air of the Senate chamber on the 24th of January, and on February 9th, and states the results in his testimony. Indicating the saturation point of air at any given temperature by the number 100, we have a standard established for comparison, when ascertaining the quantity of moisture actually present in any specimen of air. Upon ascertaining the amount so present, it may be indicated by a number which will bear the same relation to 100 that the amount found present bears to the amount which would be present if the air were completely saturated or contained moisture to the full extent of its capacity. And in such case, the number indicating the quantity present is called the "relative humidity" of the air examined.

Now the mean annual relative humidity of atmospheric air in England has been ascertained to be about 75°, saturation being, as before stated, 100°. Mr. Roscoe states that in the House of Lords the air is pleasant to breathe when its relative humidity ranges between 55° and 82°. But Dr. Wetherill found the relative humidity of the air in our Senate chamber on January 24th to be as follows: In ladies' gallery, near reporters' gallery, at 2¼ p. m., 27. In same, near diplomatic gallery, 27. On same day, at 3 p. m., the relative humidity of the external air entering the ventilating fan, was 56.

On February 9th, with a relative humidity of external air at 55 at 2½ p. m., he obtained the following results in the Senate chamber: In southeast corner of chamber, on a level with desks, at 3½ p. m., relative humidity, 20; in diplomatic gallery, at 4 o'clock, 21.

These astonishing but indisputable results prove that upon that occasion less than one-third the proper amount of moisture was present in the air of the chamber.

An observation taken by him at 4.30 p. m. of the same day in the air-space above the ceiling is also instructive. He found the temperature to be 64°, while the temperature in the hall below at the previous observation had been 70.9° upon the floor, and 68° in the diplomatic gallery. An enormous influence of the roof in producing cold, and affecting the air of the halls, is shown by these figures. It was a cold day, with an external temperature of 30.6°.

It may be added that by observations taken at the Smithsonian Institution for the months of February and June, 1859, there being three observations daily, the mean relative humidity of the atmosphere for the former month was 71, and for the latter month, 69. Therefore, on the 9th of February, 1865, the air used in ventilating the Senate chamber, with an external February temperature, and an inside temperature of June, had a point of relative humidity in the chamber that required to be multiplied by 3½ to raise it to the proper Washington average.

With good reason, therefore, does Dr. Antisell declare in his testimony that one of the capital defects of our ventilation is the want of hydration of the air of the halls.

Some attempt has been made to hydrate the air recently, but in a very insufficient manner, and without material effect. The laudable effort of the present Sergeant-at-Arms of the Senate, with insufficient space and facilities at command, to hydrate the air of the Senate chamber, deserves commendation.

But to accomplish the object in view a radical change in existing general arrangements is required. Dr. Reid states that, in ventilating the English House of Commons, when it was crowded, he often exposed the air furnished to 5,000 feet of evaporating surface, to impart the necessary moisture, *and subsequently made the air flow through jets of water.* (*Youmans, sec.* 341.)

The ideas that have obtained in the ventilation of the Capitol may be estimated by the statement made to the committee by the present architect, that he proposed to hydrate the air of each hall by passing it over an evaporating surface of 40 square feet. The committee are not prepared to recommend this particular experiment. (A subsequent statement was, 30 feet of heated water, or a surface a little exceeding 4 feet by 7.)

"When dry air is exposed to a source of moisture, a considerable *time* must elapse before it will become saturated. The diffusion of vapor into hot air is much more rapid than into that which is colder, but it is not at all instantaneous. Mr. Daniell observed that a few cubic inches of dry air continued to expand by the absorption of humidity for an hour or two, when exposed to water of the temperature of the surrounding air."

It follows that the dry and warmed air for supplying rooms of great magnitude must be passed over an evaporating surface of great extent, in case that mode of hydrating it be adopted. Doubtless, warming the water would increase the efficiency of the plan. Dr. Antisell recommends spray or jets of water thrown into the air at a right angle to its current, which would no doubt be an effective and satisfactory mode of accomplishing the object where the necessary facilities can be established, among which space is indispensable. The objections to the use of steam, on an extensive scale, for hydration, are, the production of noise, and, as alleged, of odor, and its imperfect dissolution in the air before entering the chamber. It passes on with the current of air for some time before it becomes dissolved and incorporated with it, and moisture is deposited upon all surfaces with which the volume of air comes in contact There is no arrangement for introducing steam into the air passing to the halls, but it was provided for the air directed to the committee rooms and passages. The plan was not found to work well, and has not been in practice.

DUST RISING IN THE HALLS.

4. Dust rising in the halls from the floors. This defect arises from the introduction of air through horizontal openings in the floors, and is an inconvenience which should be abated, if possible.

In Dr. Reid's arrangements for ventilating the former House of Commons, mats and Russian scrapers were provided in the lobbies to secure the greatest possible exclusion of every source of impurity from the floor; the air being admitted through the floor by numerous apertures.

This difficulty of dust rising in the room, as well as the introduction of refuse substances into the horizontal openings in the floor, would be mitigated, though not entirely removed, by the introduction of the air through the risers of the steps behind the seats of members. That was the original plan, but it was abandoned, as was also the free introduction of air into the sides of the room, because of the unpleasant currents produced. No doubt the latter effect would be decreased, if not removed, by proper hydration of the air; for it is quite certain that a current of dry air, although at a high temperature, will produce chilliness, on account of the rapid evaporation caused by it.

INEQUALITY OF TEMPERATURE.

5. Unequal temperature in the halls at the same level. The statements of temperature which appear in the evidence establish and illustrate this point; the temperatures given of the hall of the House are average ones; observations of a number of thermometers, at the same level in various parts of the hall, differing several degrees from each other, being taken. The Senate chamber temperatures are those of single instruments with their particular locations noted, differing, in some cases, five degrees or more from each other at the same level, but on opposite sides of the chamber. The certain result of these differences of temperature is to cause unequal movement of the air and to disturb the regularity of the ventilation. The air will ascend unequally in different parts of the halls, and perhaps, also, some disturbance of sound will be thereby produced.

EXTREME HEAT.

6. Extreme degree of heat in the halls. The thermometrical observations, besides showing differences of temperature, show also an excessive degree of heat. The average exceeds 70°, whereas it should not exceed 65° to 68°.

"In private houses the air should never be allowed to remain above 70° when warmed by heated air; when heated air is used in connection with open fires, or other radiating bodies, the temperature will not often require to be above 65°." (*Wyman*, p. 188.)

"The best temperature for a room is 65° to 68°." (*Youmans, sec.* 21.)

Temperature in former House of Commons.—"The house is heated to 62° before it is opened, and maintained generally at a temperature varying between 63° and 70°, according to the velocity of the air passing through the house." (*Reid, sec.* 659.)

A proper temperature is fixed by Dr. Antisell, in his testimony, at 66°. In fact, a

temperature exceeding 70° in the halls would be intolerable were it not for the aridity of the air; because of *that*, rapid evaporation takes place, rendering individuals less sensitive to the presence of heat. But the degree of heat to which individuals are subjected in the halls is probably injurious, and is in more marked contrast to the external temperature than is desirable. These observations relate to the winter and spring months, but the temperature of the halls in summer is often offensively high during both day and night sessions; for the heat passing through the roof into the halls by day, and the heat thrown down by the lights at night, are equally intrusive and objectionable. There was no necessity for establishing the conditions from which these effects follow; and the heat, which sometimes reaches nearly 90° in the halls, is productive of much discomfort, is injurious to health, and obstructive of legislation. In summer the air is sufficiently moist, but temperature is less subject to regulation than in winter.

COMMUNICATION WITH AIR SPACE ABOVE THE CEILING.

7. The air of the halls is not kept distinct and apart from the air of the spaces above the ceilings. It is, therefore, subject to the influence of the roofs and of the lights. From this cause the ventilation of the halls is disturbed, and rendered imperfect, as will be shown under subsequent heads.

THE ROOFS.

8. The roofs are exceedingly objectionable as they exist at present, composed in part of metal and in part of glass, generating cold or admitting heat according to season, and conducting the noise of storms enormously and offensively to the halls. In erecting them, it seems to have been forgotten that this Capitol was not to be an Egyptian or Grecian temple, under a genial sky, nor even a Roman church, in the mild climate of Italy, but a great structure for the use of legislative bodies, in a comparatively inclement location upon the banks of the Potomac. Windows upon the sides, for lighting the halls, if made double, would not only have accomplished their office more perfectly than a glass roof, but would have protected the air of the chamber from all injurious influence of the external atmosphere, and from the intrusion of all external sound; and even the entrance of solar heat, now enormous, and incapable of regulation by the roof, might have been excluded, by shading, when necessary, the windows exposed to it. Light from side windows would be soft, natural, cheerful, and diffused, producing perfect illumination of the whole interior space, including the galleries, now so unequally and imperfectly lighted. And, finally, windows, unlike the roof, might be thrown open at pleasure, and thus, at proper seasons and upon fit occasions, rapid and thorough ventilation of the halls secured.

THE LIGHTS.

9. The particular arrangement for lighting the halls by gas jets above the ceiling is another defect requiring attention. The jets are very numerous—those used for lighting the hall of the House exceeding twelve hundred in number. The amount of heat created by them is very great, and the quantity thrown down into one of the halls at a night session increases the temperature of the hall from three to five degrees. This is peculiarly disadvantageous in summer, and renders night sessions uncomfortable, there being no effective arrangement for cooling the hall. There is an unnecessary consumption of gas, and the products of combustion are not effectually removed.

Dr. Reid says: "When any vitiated air is produced by a gas lamp or other artificial light, or by any manufacturing operation, too much importance cannot be attached to the desirableness of involving it directly in a stream or current of air by which it is conveyed to a channel where it cannot possibly contaminate the air of respiration." (S. 458.)

It is to be remembered that there is extensive communication between the hall and the air space above the ceiling, where the lights are placed, through numerous apertures along the ceiling, allowing impurities of combustion to pass into the halls with any downward current. And Dr. Antisell explains, that the accumulation of hot air under the roof without sufficient means of exit is to back up against the outgoing currents from the hall and prevent their escape.

There can be no doubt that comparatively few lights arranged with reflectors and ventilating chimneys would light the halls perfectly, would throw down but little heat into them, and would thoroughly ventilate the air spaces above the ceiling, assuming that they were cut off (as they should be) from any communication with the halls.

IMPERFECT REMOVAL OF AIR.

10. One principal defect of ventilation is, the imperfect removal above of the vitiated air of the halls. Under this head two points are to be considered: 1st. That the

avenues of escape for the air are inadequate; and, 2d, that no exhausting power is applied. Whatever of escape takes place is simply from the natural ascent of heated air, and this action is insufficient and irregular from defective arrangements. In the case of the Senate hall the apertures for the escape of the air have a deficient capacity of one-sixth as compared with the entrance shaft, or passage below. The velocity of escape is deficient also to the extent of one-third as compared with the entrance movement produced by the fan. Great irregularity and imperfect ventilation are the necessary results.

As to the application of artificial power for the removal of the air, Dr. Antisell says: "The chief power should be placed at the point where the air is thrown out or removed from the building. I look upon a fan for the introduction of air as of secondary importance compared with a fan placed at a point where the air is removed. The object is to remove the air that has become impure, and it may be done much easier and with more certainty if the power is applied at the removing point."

Question. "Do you consider the application of power for the removal of air from a chamber more important than for its introduction?"

Answer. "Certainly; that is the main point. The main power should be applied where the air is to be removed, and for this reason: You are never sure, in driving air in, that it arrives at the point desired; but if you take it out of the room the thing is palpable."

Now, at present, the air is forced by fans into the halls and then allowed to take its own course, subject, however, to all the disturbing causes which exist in the halls or above them. No power is applied to produce certainty and regularity in its removal.

CARBONIC ACID GAS.

The presence of carbonic acid gas in the halls is, no doubt, in excess of the quantity contained in the external atmosphere, but the committee have not been able to obtain any exact determination regarding the quantity present, either at ordinary sessions or upon extraordinary occasions. The detection of this gas, and an exact determination of the amount of it contained in air, require skill, careful attention, and instruments and materials of analysis of much perfection. Of atmospheric air in a state of ordinary purity, carbonic acid gas constitutes but about four parts in ten thousand; and even in air overcharged and rendered unhealthy by its presence, the quantity contained is exceedingly small. But the examination upon this point now being prosecuted by Dr. Charles M. Wetherill, of the Smithsonian Institution, will furnish information approaching exactness, as his capacity and fidelity are both unquestionable. In the absence of reliable information, no clear opinion can be formed upon this subject, but the committee are induced to think that the contamination of the air of the hall from this cause is not very excessive or injurious. The reasons for this opinion are, the great size of the halls, the fact that notwithstanding defective movement of the air in ventilation, the quantity of air removed within a given time must be very considerable, and that the halls are usually occupied but a few hours at one time. Upon extraordinary occasions, when the galleries are well filled, it is probable that defective ventilation permits an unhealthy accumulation of this pernicious gas, and its enormous production by the lights, without perfect exclusion from the halls, may produce contamination of the air, even below the ceiling.

Such, then, are the existing defects to which the attention of the committee has been directed, and they may be briefly summed up as follows:

That the air is taken from an improper place, where it contains dust and is over-heated in summer. That it is over-heated by steam-pipes. That the air as introduced into the halls during the winter and spring months of the year does not contain more than one-third to one-half the moisture or vapor of water required at the temperature to which it is raised. That its aridity is a capital defect, and demands radical change and amendment. That dust rises in the halls from the introduction of the air through the floors. That temperatures are unequal in the halls at the same level.

That the heat is extreme in the halls, at least by 5° or 6°, and most excessive in summer, both by day and night, from the influence of the roofs and lights.

That the air of the halls is not kept distinct and separated from that between the ceilings and roofs.

That the roofs are very objectionable both from their construction and the materials of which they are composed, and that for the glass roofs, side windows, made double, would be an admirable substitute.

That the present arrangement for lighting the halls is bad.

That the removal of the air from the halls is imperfectly accomplished, the outlets being inadequate, and no exhausting power provided.

THE PLAN OF IMPROVEMENT.

The changes and improvements proposed by Mr. Anderson, the architect, are stated in detail in his report to the committee, which is appended hereto, and are shown and

illustrated by his plans and drawings which accompany it. He proposes to obtain air from situations upon the bank west of the building, through vertical shafts of some elevation; to conduct it through protected passages into the sub-basement, and then conduct it upwards through appropriate passages to air-chambers outside and near the upper part of the halls. From these distributing chambers it is to pass through ducts over the ceilings, and obtain admission to the chambers through the present apertures in the ceilings. The entire movement of air so far is to be produced and regulated by a powerful fan placed near the bottom of the ascending passage, and provision is made for warming the air upon its way by hot-water pipes, and for cooling it in summer by the use of ice. He proposes also to place jets of water in the outer entrance shafts, and to provide most ample and effectual arrangements for hydrating the air before it reaches the ceiling. The space at command will enable this to be done perfectly, thus removing wholly one of the main defects in the existing arrangement. The removal or exhaustion of the air from the halls will be through the floors and through the present passages used for the introduction of air, powerful fans being again used for accomplishing this purpose.

THE PLAN CAN BE REVERSED.

Now, whatever opinion may be formed of the merits of the plan thus far, as to the movement of air in the process of ventilation, it is manifest that it possesses the merit of being capable of exact reversal. At any time, if desired, the air may be introduced from below, conveyed upward through the halls, and exhausted through the proposed entrance-passages of the place; in which case it would become, as to its general features, almost the identical plan successfully adopted by Dr. Reid for the ventilation of the former House of Commons. In fact, such reversed plan would have a material advantage over the Reid arrangement in the use of an effective exhausting-fan instead of a fire and chimney. Dr. Antisell and Mr. Cluskey correctly state that such reversal of the plan, as to direction of the movement of the air, could be made with little expense and alteration if desired hereafter. This consideration meets any possible objection to the downward movement of air through the halls, by those who may not be convinced of its utility, efficiency, and success.

ELEVATION OF CEILINGS AND ROOFS.

But a most material part of the proposed plan—that which involves most of expenditure and requires most of careful investigation—is the elevation of the ceilings and roofs, with the accompanying and consequent changes.

It is proposed to elevate the ceiling and roof, in each wing, about fifteen feet; to make the roof double, the inner one counter-ceiled with non-conducting material; to substitute a limited number of lights, with reflectors and ventilating chimneys, for the present numerous gas jets, and to insert windows around the whole upper part of the hall in the space gained by the elevation of the ceiling and roof. Thus, the air-space above the ceiling, separated entirely from the ducts through which the air for the hall is introduced or exhausted, will be ventilated by the chimneys of the lights; all the products of combustion will be at once removed; abundant light, with little heat, will be produced; all influence of external heat or cold and all noise from storms will be prevented by the double roof and the insulated air space above the ceiling, and perfect illumination of the hall and galleries, with other advantages, secured by the side-windows introduced. There can be no doubt that these would be most valuable improvements upon the points involved in this inquiry, to wit, the heating, ventilation, and acoustics of the halls of Congress.

The laws of architectural proportion require the elevation of the ceilings, and the appearance of the halls (and particularly the hall of the House of Representatives) would be greatly improved thereby.

The original plan of Mr. Anderson, which was mainly followed in the construction of the halls, and in their location in the center of the wings, contemplated windows above, as now proposed, and it is not likely that any competent architect would ever propose such rooms, so located, without any possible access to solar light except through the roofs.

Besides, it is insisted upon by professional gentlemen, and appears to be true, that the architectural effect of the Capitol, viewed externally, would be improved by the moderate elevations proposed to be added upon the wings. The sky line of the structure would be somewhat broken, which would comport with the style of Roman art upon which the Capitol was originally designed—the Roman-Corinthian order—and the attention now fixed, concentrated, and absorbed by the great central dome, would take in the whole structure and recognize the wings in which the great legislative houses, composing the Congress of the United States, are assembled.

The elevations would recede inward some distance from the outer vertical line of the wings, and none of the present or proposed exterior work upon the wings would be disturbed.

OBSERVATIONS UPON THE PLAN.

Recurring to the details of the plan of changes already stated, the committee have some additional observations to submit upon particular points.

It is questioned by a most competent witness examined by the committee, whether entrance shafts for the external air so high as 25 or 30 feet are necessary or expedient, and also whether jets of water in those shafts would be an advantage. The committee conclude that neither point is very important, and, however determined, will not materially affect the general plan; a proper place for obtaining the air being the main object to be secured in the first instance. As to passing the air over ice in the summer for the purpose of cooling it, the committee think that the use of cold water in the pipes used in winter for warming the air would usually be sufficient for a proper reduction of temperature. In hydrating the air the use of an extensive system of jets or spray of water, reasonably warmed, in the ample space at command by the plan, would be the most efficient and satisfactory. Any use of steam must be in moderate quantity, and at some considerable distance from the point of entrance into the chamber, to permit its perfect absorption and dissolution in the air. Level evaporating surfaces would require to be of great extent; their arrangement might impede the movement of the air in ascending, and might cause accumulation of dirt or impurity. The plan of hydration here suggested is contained in the testimony of the intelligent and able witness already mentioned, and is concurred in by the architect. Another suggestion from the same source, as to an easy improvement of the openings of the ceilings for the passage of air, is believed to be judicious. The windows to be introduced into the upper part of the halls should unquestionably be double, and, in the opinion of the committee, no stained glass should be used in their construction.

THE DOWNWARD MOVEMENT OF AIR.

But one additional feature of the plan remains to be considered—the proposed downward movement of the air through the halls. In his "Notes upon Acoustics and Ventilation," submitted by Captain M. C. Meigs to Jefferson Davis, Secretary of War, May 19, 1853, the advantages of the descending movements are stated to be, the avoidance of all eddies, a nearly homogeneous and tranquil atmosphere, and the immediate removal downward of any dust from the carpet, which would thus be prevented from rising to be inhaled into the lungs; and it is insisted upon that good acoustic results would be secured. The plan of Captain Meigs for the ventilation of the halls of Congress was undoubtedly derived from Mr. Anderson, whose plans, with printed explanations, were in his possession for some time, and obviously adopted and followed to a great extent in the construction of the wings. The "Notes on Acoustics and Ventilation," elaborating the advantages of the descending movement, are therefore appended to this report, and in connection therewith the emphatic indorsement of them as correct and judicious by Professors A. D. Bache, of the Coast Survey, and Joseph Henry, of the Smithsonian Institution. The views thus presented and indorsed were the views of Mr. Anderson, and are exactly applicable to the plan now proposed by him, and they retain whatever of soundness and force they possessed in 1853, notwithstanding they were subsequently departed from in the construction and arrangements of the halls.

But there are two material advantages of the descending movement of air which were not stated in the "Notes" referred to, to wit: the equalization of temperature in the halls, and particularly near the floors, and the economy or saving of heat; both of which are important and evident. They are stated by Dr. Antisell, and to be taken into consideration in determining the plan now under consideration. For the difference of temperature upon opposite sides of the hall, constituting one of the existing defects, would be wholly avoided by the downward movement. The tendency of the air after its admission at the ceiling, and during its progress to the floor, would be toward equalization and uniformity of temperature, and the *movement* also would be comparatively regular until acted upon very near the floor by outgoing currents. The argument, therefore, for improved acoustics by the downward movement, as given in the "Notes," is strengthened by these considerations. The facility of heating the hall, and economy in the use of heat for that purpose, would also be greatly increased; for a considerable time is now required for warming one of the halls, inasmuch as the heated air when first introduced passes rapidly to the ceiling and roof, the colder air remaining in, or falling to, the lower parts of the hall. The process must therefore be continued until the entire space is thoroughly warmed, and if the air is introduced at a proper temperature several hours will be required for this purpose. Besides, a great amount of warm air is wasted in heating the space between the ceiling and roof, and a large amount necessarily lost by the roof itself, as before mentioned. But in introducing the air above, as proposed, with an exhausting power below, the room can be warmed rapidly, the exhausting fan withdrawing the cold air with certainty and dispatch and permitting its place to be occupied by the descending

volume of warm air. No heat will be lost by the roofs, nor diverted to the air spaces between them and the ceiling.

The "Notes" correctly state that, "by a steam-driven fan, or other mechanical means, we can pump air, in any desired quantity, into any spot to which we choose to direct it."

The fan is now the accepted instrument for the movement of air by either the plenum or vacuum impulse, where great efficiency is desired, and its improvement has been carried so far as to leave little to be desired. Where the size of a building warrants its use, it gives any desired power with certainty and cheapness, and is capable of adjustment in almost any position where the limited space required by it can be obtained. And it has superiority over a chimney with fire, in its capacity to move air in *any* direction, and to move it regularly and with greater efficiency. Placed as a power to supply or exhaust a room, its force can be exactly calculated and the result intended precisely accomplished. The exhaustion of the air of a room by it in a downward direction can be made at pleasure. It is simply a question of the application of a power entirely at command, in an intelligent manner.

A few notable instances of downward movement in ventilation may be mentioned, and first that of the model Pentonville Prison, of which Professor Wyman says: "The arrangements which have been in operation ventilating and warming the cells, and maintaining an equable, general temperature within the prison, have been attended with complete success." The air is introduced through horizontal passages warmed by hot-water pipes, and, passing upward along flues, is admitted into each cell at the top immediately under the ceiling. It is withdrawn from the cell on the opposite side, at the floor, and passing upward through flues is eventually discharged by a high shaft above, into which the smoke-flues from the heating apparatus also enter. "It will thus be seen that a communication is established, first, from the outer air through the warming apparatus to the top of each cell, and thence from the floor of each cell through the extracting flues and ventilating shaft into the outer air again."

"A perfect diffusion of air takes place in the cell, the difference of temperature at the ceiling and floor can scarcely be detected, and will seldom exceed one degree, and it may be inferred that the difference of power required for extracting the air at one or the other of those levels would be inappreciable."—*Wyman.*

Of course, if the air were required to pass down from the cells to the basement, some appropriate power would be necessary to accomplish the movement.

The ventilating movement of air, as above described, is assisted in the winter by the smoke and disposable heat in the shaft above, from the heating apparatus, and in summer a small fire, maintained at the bottom of the shaft, is used. In short, the assisting power used is very slight, and yet it is said by an intelligent author that, "so admirably is the ventilation of the building contrived and kept up that there is not the least sense of closeness prevading it; for we feel, immediately we set foot in the place, how fresh and pure is the atmosphere there."—(*Mayhew's Prisons of London*, p. 120.)

A diagram of the fine Portland prison, showing the introduction of air into the compartments, both above and below, on one side, and its exhaustion on the opposite side at the floor, is to be found in the Prison Commissioner's Report, volume 29, for the year 1850.

In the case of the New York Hospital, upon Broadway, designed by Mr. Anderson, and where the plan of ventilation is successful, the air is obtained through shafts of neat appearance about twelve feet high, placed outside the building; is carried into a passage of the sub-basement, from thence admitted to the heating apparatus above, there warmed by hot-water pipes, and permitted to ascend and enter the wards upon the sides. It is removed upon the opposite side, through openings into flues above and below, either of which may be used, but those at the floor are found most efficient in practice, and remove all offensive odors of wounds and sickness from the room. The exhausting flues are connected with a small room above, in which hot-water pipes are placed to assist the movement and discharge of vitiated air. The statement of the engineer in charge is attached to this report, and confirms the opinion of a member of the committee who visited the building, that the air of the wards is good, and the whole arrangement of ventilation judicious. The use of a fan would increase efficiency of movement, if that should be desired, in this or any other building of like arrangement.

In the case of the new emigrant hospital now in course of erection on Ward's Island, New York, the air is obtained through an elevated shaft placed some distance from the building, and conducted through brick ducts, and then upward through iron shafts, through openings in which it is admitted into the different wards. It is removed through openings near the floors, behind the patients' beds, and discharged into the atmosphere in the usual manner. The letter of the architect, describing the plan, is hereto attached.

OBJECTIONS CONSIDERED.

Professor Wyman states very clearly the objections to the downward movement of air which have prevented its general adoption in buildings with much force and clear-

ness; but it will be observed that they have no application to the plan now under consideration. The first is, that this movement requires that the openings for the escape of the air should be nearly as numerous and diffused as those for its admission in the ceiling, and for most evident reasons. Ordinarily, however, such numerous apertures at the floor cannot be secured; but in our case they already exist, and the objection fails. Another objection in ordinary cases is, that in the downward movement the lights must be provided with air entirely separate from that which supplies the room, in order that the gases and other products of combustion shall not be breathed. But in the present plan the separation of the space where the lights are placed from all communication with the air of the hall is one of its main features, and easily secured. We may add, that the perforation of the ceiling for the diffused admission of the air is often inconvenient or impossible, and that facilities for operating an exhausting power below do not exist. None of the ordinary difficulties opposed to the descending movement are, therefore, to be encountered in the present case. Its practicability, however, is admitted by our author in strong language, and its desirability indicated where the conditions exist for its application. He says: "The flow of air may, when under the control of an efficient moving power, take any direction that may be desired; it may move from below upward, or the reverse, or in both directions at the same time. * * There is no impossibility of producing a constant and equable downward movement. * * * The unoccupied ceiling, in its whole extent, may be used for the admission of air, which may reach the lungs uncontaminated by dust or contact with the body. This is the movement which constantly arises in rooms heated by means of fire-places, &c."

He explains that heated air first rises to the ceiling and afterward, upon cooling, descends, and is removed by the chimney.

It is a common practice in ventilation, upon the removal of ascending air at the top of the room, to take it down a side passage and deliver it into the external atmosphere. This may be accomplished by a fire-place at the bottom of the passage, connected with an upright shaft or chimney, as in the case of the temporary House of Commons, or much better, both as to efficiency and regularity, by an exhausting fan. But manifestly this downward exhaustion of air accomplished in the side passage may be accomplished equally well in the room itself as to air introduced at the ceiling.

Only one point remains to be noticed under this head—the ascent of impurities from the bodies of persons occupying a room. Evaporation from the skin and air breathed from the lungs convey impurity to the air, and cause an ascending movement in the first instance, and it is said that from this cause the descending air may be contaminated before it reaches the person. It is true that air breathed from the lungs is usually warmer than the air of the room, and has an ascending force mainly due to the elasticity of its watery vapor. But its superior temperature is quickly lost, and in accordance with the well-known law of diffusion of gases, it becomes incorporated with the descending air, and passes downward. As some time is necessary to contaminate the air, it follows that in a descending movement all impurity is removed below the region of respiration before it becomes appreciable or injurious; and as the whole air of the room is changed within a period of less than ten minutes, there can be no such accumulation of impurities in any particular section of air as to render it offensive or objectionable. The floors of the galleries being perforated with numerous openings for ventilation, no vitiated air produced there will pass down to the floor of the hall.

The committee has given this elaborate examination to the subject of ventilation by a downward movement of air, not because its approval is indispensable to the plan proposed by the architect, but because it is desirable to adopt a plan which will allow the application of that particular arrangement. The plan will stand good for an upward movement of air through the halls, but, for the reasons already given, sustained by the authorities cited, the downward movement appears to promise the most complete and satisfactory results in ventilating the halls of Congress.

RESUMÉ.

In summing up the whole case upon the architect's plan, it may be stated to involve the elevation of the ceiling, the insertion of side windows, the removal of the glass roof and substitution of a double roof, the separation of the air-space above the ceiling from all communication with the hall, the substitution of fewer lights, with reflectors and ventilating chimneys, for the present lights, the introduction of pure air from an external point by a fan, with proper warming and thorough hydration, and its effectual and regular removal from the hall by an exhausting fan; and, by the plan, either an upward or downward movement of air through the hall may be established; a change from one movement to the other requiring only a change of location in the heating and hydrating apparatus. Upon the merits of the plan, reference is made to the testimony of Mr. Cluskey and the other witnesses, and particularly to the following question and answer in the examination of Dr. Antisell:

"Question. What do you say as to the feasibility and success of Mr. Anderson's whole plan, as compared with the present arrangement?

"Answer. It would be much more effective than the present plan, and feasible in its details."

The evidence of the same witness upon the utility and advantages of an exhausting fan in ventilation is also worthy of particular notice.

THE ESTIMATES.

The concluding subject for examination under the resolution appointing the committee is the cost of the proposed changes. The careful and elaborate estimates laid before the committee, and herewith reported, show a total expenditure for the Senate wing of $113,185 25, independent of an attic, for the erection of which the estimate is $37,500. For the House wing the expenditure is $15,921 30 more. The erection of an attic upon it would cost the same as for the Senate wing, being of the same size. These estimates are made at the present prices for labor and materials, and, as to nearly the the whole proposed outlay, assume the form of proposals by a competent party. Underwritten his estimates for the wings, respectively, (including nearly the whole of the work and materials,) Benjamin Severson, the directing engineer in erecting the present ceilings and roofs, proposes to execute a contract at the prices stated, and to give ample security for its performance.

If the plan of improvement now submitted to the two Houses be regarded with favor, the committee recommend that the improvements of the Senate wing be executed between the termination of the present and the commencement of the next session of Congress. There will be ample time for this purpose, and an advantage in concentrating attention and effort upon the one wing. In proceeding, subsequently, to the improvement of the House wing, the temporary roof, fixtures, and implements used in the work upon the Senate wing can be transferred to the other; and any improvement or modification of details in the general plan can be applied in executing the work upon the House wing.

The expenditure for the Senate wing, exclusive of the attic, will fully secure all the changes and improvements proposed in the plan examined by the committee; in other words, will secure the elevation of the ceiling and roof, with side windows and all the arrangements of ventilation. Attics, however, will properly follow the other proposed changes, and are required for architectural effect. Marble, already on hand, can be made available in their construction.

With this question of expenditure upon the proposed improvements, a collateral one, relating to the wings, may be considered. The present plans of the Capitol extensions indicate expensive colonnades upon the north, south, and west sides of the building, to be placed upon the arcades already erected, and an appropriation of $300,000, applicable to their construction, was made at the last session. That appropriation remains unexpended, and the question arises, whether it would not be well to withhold it from the volume of public outlay. There is no necessity for the present expenditure of this large sum, and the utility and advantage of making it, at any time, is matter of debate. Mr. Anderson, in his testimony, says:

"I recommend that you finish these arcades with cornice and balustrade at the top, which will produce a good architectural effect by carrying out the principles of a Roman structure more fully than to finish them as heretofore proposed. It is not intended to put porticoes but colonnades over the arcades. The plan is to carry round the entablature on those colonnades. The effect of it would be simply this: A column before each pilaster has no object of any kind effected by it. It involves an additional expense of marble-work and excessive weight, without any possible advantage. Standing at right angles with the building these columns would not be seen more than the pilasters would which stand by them; they would merely obscure the pilasters, and at the same time deprive the numerous offices on each side of the building of air and light. It is an object in architecture never to introduce an ornament without a purpose. In every well-designed architectural building there never is an ornament introduced that has not its object, which this feature of the design of the Capitol has not. The same observation is applicable to all of the four colonnades—north, south, and two west. * * * * A balustrade would be a great deal cheaper than the other plan, and it would, at the same time, admit more air and light."

These views seem to be forcible and just, and are, therefore, brought to the attention of Congress for consideration.

Upon due reflection, the committee are induced to submit the question of withdrawing the appropriation for the colonnades, or at least deferring the expenditure, in view of an inquiry through an appropriate committee as to their utility and merit. If balustrades can be substituted for them without disadvantage, a very large amount of money can be saved to the Treasury, and the burden of the expenditure now proposed by the committee for real and necessary improvements in the Capitol wings be mainly avoided.

ARCHITECT'S REPORT.

To the honorable the Joint Select Committee of the Senate and House of Representatives of the United States on the subject of lighting, heating, ventilating, and the acoustics of the two halls of Congress.

The report of Charles Frederick Anderson, architect and civil engineer, of the city of Washington, D. C., most respectfully represents—

That in obedience to your appointment and directions, made in pursuance of the concurrent resolution of the two Houses of Congress of the 10th of May last, the undersigned has diligently applied himself to a minute examination of the various parts of the north and south extensions, and to the various plans and drawings of their several parts which will necessarily have to be used or which will be slightly affected by the plan by which he proposes to improve the lighting, heating, ventilating, and acoustics of the halls of Congress, with a view to discover the most direct, easy, and economical manner in which the plan can be applied to the structure as it now exists.

This examination has the more strongly and clearly developed the errors of those parties having charge of the construction of these extensions, in departing from the plans which the undersigned had the honor to furnish for the accomplishment of these objects, and which had been submitted to President Fillmore, and been supported by Mr. Webster, then Secretary of State. During the administration of President Pierce, these same plans were submitted to him, and fully examined and approved by Montgomery C. Meigs, then captain of United States Engineers and superintendent of the Capitol extension, and by Professors Bache and Henry, and were also approved by the Secretary of War, under whose direction the works had been placed, as will fully appear by the documents appended to this report; and yet, strange as it may appear, Captain Meigs, in his actual construction of the extensions, not only rejected this plan for the lighting, ventilating, and heating of the legislative halls, but actually reversed the whole system, making the error radical, and therefore more difficult now to remedy or correct. However, by a thorough study and examination of all the parts, the undersigned flatters himself that he has (by his accompanying plans) established the means of making the desired improvements with the least possible alteration or change in the interior arrangements; none, in fact, which will occupy any material apartments or space of the extensions, or injure or interfere with the present appearance and arrangement of the halls of Congress in any way, except to lighten up and greatly improve their interior appearance, as well as the exterior superstructure; all of which will be shown and explained by this report, and by the drawings and plans herewith submitted.

The erroneous plan adopted by Captain Meigs, which has been operating since the occupation of the halls, and now exists in both Houses, receives the exterior air under the ground floor from off the surface of the overheated and dusty terraces, furnishing much of the bad air from beneath, carried to its surface by evaporation and side currents of air from the ground, and this air is also tainted with much of the odors caused by the machinery near which it passes.

The air injured by these causes is drawn to the openings in the cellar or sub-basement walls by the action of the fan-wheel, which forces it up under the floors of the two houses, where it finds vent through the gratings under the members' desks, the risers in the floors, and openings round the halls, and in the galleries. By the action of these currents the vapors introduced from below rise from the floors of the halls, and keep in constant motion the vitiated air generated by the breath of the persons occupying the floors and the galleries, of which carbonic acid gas, being heavier than the purer part of the atmosphere of the chambers, is constantly tending to and settling upon the floors, and would remain upon the floors, like a malaria or noxious miasm, were it not kept in motion near the floor by the currents of dirty air coming up through the gratings and registers; there is added to this bad air all the dust produced by the walking or movements upon the floor, independent of that brought from below. This atmosphere of the halls, as at present arranged, cannot be otherwise than unwholesome, and, were it not for the frequent opening of the doors leading into the halls, would prove much more oppressive and intolerable than it is. To persons of weak lungs, however, the deleterious effects of the present arrangement are more immediate and sooner felt than by persons blessed with more robust constitutions; but even these may be taken sick without any apparent cause, unless it can be traced to the fact that the seeds of the sickness have been unconsciously imbibed while sitting quietly in their seats, and much more so while engaged in speaking, or in the heat of debate, when the lungs must of necessity become inflated and irritated by this pernicious atmosphere.

From these remarks it will be manifest to the plainest understanding that a great error has been committed in attempting to furnish the proper air to the halls, passing it through and mixing it up with the vitiated air as above explained, instead of introducing the pure air into the upper elevation of the halls, and drawing down the im-

pure atmosphere through the gratings in the floor. Having thus simply explained the errors of the present system, it is the purpose of the undersigned to explain the principles and the manner in which he proposes to remedy the existing errors and defects, and furnish to the national councils a pure, temperate, and refreshing atmosphere, of an equal temperature at all seasons, in which members may with safety exercise their lungs while conducting the high and important legislation of the country, with ease and pleasure, and without any apprehension of receiving injury from the medium through which their views, arguments, and business transactions may be expressed in the two Houses.

To accomplish this purpose, the undersigned will endeavor to be as succinct as the nature and the importance of the case will admit of, and, with this view, will divide his explanations as follows, viz:

1st. The undersigned proposes to furnish an abundant supply of fresh, unadulterated air, rarified in winter, hydrated, purified, and cooled down to any desired temperature in summer, to the halls of Congress, so as to insure a uniform temperature at all seasons, with a healthy atmosphere, to be effected by vertical air-shafts to be built on the banks on the west side of the Capitol extension, one for each wing, twenty-five feet high over the level of the flagged terrace, and in the position marked on the accompanying plans of the sub-basement floors, (*specified by the red tint;*) through these shafts pure air, procured from that elevation, will pass into the air-chambers on the sub-basement floors, through dry tunnels, seven feet six inches in diameter, built of hard brick and cement twelve inches thick, and cemented on the inside, so as to make them impervious to damp, with a fall to the vertical shaft, in which shaft a jet of pure water will play at discretion, and be capable of adjustment in the engine-room.

In the sub-basement air-chambers are iron stands on which to pile ice in hot weather, and through which the hydrated and purified air will have to pass to the fan-wheel, which will force it upward through the building in the upper air-chamber arranged outside of the chamber walls, and from which it will pass into the halls of Congress through close air-tight ducts, made of two thicknesses of thin galvanized sheet iron four inches apart, filled in between with crushed pumice stone and liquid cement, passing through the perforations in the ceiling as through a sieve—this perforated portion of the ceiling forming the under side of these air-ducts.

The large upper air-chambers outside of the halls will be arched over with brick and cement, so as to render them impervious to the influence of the exterior atmosphere, either hot or cold, and the air-ducts on the ceiling, which are fed directly from these large air-chambers, are packed on three sides with non-conducting material, as before described, so as to transmit this purified, cooled (or rarified) air to the halls without being sullied by its passage through the atmosphere over the glass ceiling.

The undersigned has arranged four new fan-wheels to carry out his plan, two to force the air up and two to withdraw the vitiated atmosphere from the floors; one for each House. These are so formed as to possess five times the power of the present fan-wheel, but the power is completely under the control of adjustment. The flow of air into the halls may be required, and will be regulated by the speed of the fan-wheel, which depends on the action of the engine.

When very cool air is required in excessive hot weather, we can lower the temperature of the exterior atmosphere to any extent desired, in the halls of Congress, by placing ice in the vertical shaft as well as in the lower air-chambers, and still further by the use of salt with the ice.

All this air passes from the vertical air-shafts through the tunnel, which will be built into and covered up from the effects of the atmosphere by the present bank of earth extending to the basement air-chambers, and from thence up through the building to the upper air-chambers which supply the air-ducts over the ceiling; will be made close, clean, and pure, with a drain built at the bottom leading to the vertical shaft from the lower chamber and the ice cellar, to take off the water introduced by the jet, the melting of the ice, or the rain-water in the vertical shafts.

The undersigned has also annexed the adjoining cellars in each wing (now useless) for stores or ice-houses, where a supply can be kept convenient to the lower air-chambers for daily use when required. In cold weather steam admitted through the cluster of pipes now in use, but placed in the new air-passage, will rarify the air to any temperature required on its passage to the upper air-chamber, through which chamber a stream of pure water will be made to flow, so as to hydrate the heated air before it enters the halls. This can be accomplished by allowing the steam of either warm or cold water (to suit the temperature of the air) to flow over a continuous tray the full length of the upper air-chamber, fitted with a gauze wire bottom and divided into compartments, so as to be able to adjust the amount of mist through which the ascending air will pass at right angles. The temperature of this air, subsequently, will receive additional protection at certain seasons by the admission of air through a register from the upper air-chamber to the space over the glass ceiling, and the influence of the exterior atmosphere will be kept off the glass ceiling by means of a counter-ceiling placed on the back of the iron rafters which support the roof and the ceiling, which rafters it

will be necessary to strengthen to double their present capacity. This counter-ceiling will be composed of crushed or broken pumice stone, filled in with liquid cement, resting on thin corrugated galvanized sheet iron; it will be five inches thick, packed close, made air-tight, and plastered on top with cement. This counter-ceiling will prove to be a non-conductor of heat, cold, or sound from the exterior copper covering of the roof, leaving a space of three feet between the exterior covering and this counter-ceiling.

This plan will effectually prevent the changes in the weather, either by heat, cold, or storms, from affecting the glass ceiling as it does at present, and which has been so much complained of; in fact, the temperature of these halls could never be properly regulated so long as the exterior atmosphere could control the temperature of the space over the glass ceiling, which is at present assimilated to a hot-house in summer and an ice-house in winter, besides transmitting noise from the effects of hail and rain storms, so annoying to the members of both Houses of Congress. It will be only fair to all parties that it should be known that this system of lighting the halls of Congress by means of sky-lights is the only part of Mr. Walter's two designs which has been brought into operation by Captain (now General) Meigs, and which injudicious act is a principal cause of the heated ceilings and bad acoustics.

The undersigned proposes, as an extra or auxiliary means of heating the halls of Congress in very cold weather, to place ornamental benches in the angles of the halls and in the hat-rooms, filled with coils of steam-pipes, to supply additional heat on the floor of each House, which will obviate the necessity for heating the upper current of air too highly to be pleasant.

2. The undersigned proposes to withdraw the vitiated air from the chambers without its remaining above the floors to become injurious to the occupants, and at the same time to regulate and insure good acoustics to both halls of Congress.

To accomplish these objects, the present system will have to be completely reversed, by using the same apertures for withdrawing the vitiated air from the halls of both Houses and from the galleries that are at present used for admitting the air into these apartments, being the registers on the floors, in the galleries, and in the screens which inclose the halls, &c.

This will be accomplished by means of powerful fan-wheels made to work in the passages, which at present admit the air, and in as close proximity as possible to the openings under the floor, through which these fan-wheels will withdraw the vitiated air. The power of these exhausting fan-wheels upon this air can always be regulated to a certainty by their velocity, which will be controlled by the action of the engine.

The current of fresh air passing through the halls downwardly will also be regulated in a great measure by the action of these exhausting wheels, which will regulate the acoustics, as will be made evident from the fact that the voice can no longer ascend to the roof and be lost in the space over the ceiling, as at present. The compressed air forced through the perforations in the ceiling as through a sieve will oblige the voice to remain in the body of each House, it being an axiom in the science of acoustics that glass, next to water, possesses the greatest attraction for sound. The attraction of the voice produced by the glass-paneled ceiling over both the halls of Congress, as at present, will be obviated altogether by the introduction of the imperceptible flow of pure air into each House from the ceiling. As sound always accompanies the current of air, it will be decoyed from the glass ceiling and conveyed into the body of the chambers and into the galleries, as above described, without a reverberation of the voice produced by the present low glass ceiling. The proposed elevation of the glass ceiling, besides improving the architectural proportions of the chambers, will materially assist in establishing good acoustics, as the large field of attraction for the voice will be further removed from the floor, besides being intercepted or arrested on its passage to the ceiling by the incoming flow of pure air through the many apertures in the ceiling, and a greater space will be afforded for the action of that incoming current to mix with the air in the chambers before it reaches the floors.

The undersigned recommends that the system heretofore specified in the printed explanations which he furnished to Captain Meigs in 1853 be now adopted for conveying and dispersing the superabundance of sound on the floors to the galleries, and to the reporters' desks in particular, by inserting open slits in the surrounding screen to which will be attached zinc tubes, which will arrest the voice and convey its redundancy from off the floor to the galleries. It will be perceived that by this system the voice cannot escape from the halls in consequence of this plan for admitting the pure air, and by means of these tubes the vibration of the voice or echo will be altogether done away with, so that the full effect of the voice will be rendered more agreeable by this wholesome atmosphere produced by purified and compressed air. It will be seen by the accompanying plans that this change can be effected without interfering with the arrangements on the floors or galleries in either House, or the surrounding corridors, passages, or offices, in any way save by the occupation of one or either of several spaces, the selection of which may well be left to the honorable Committee on the Public Buildings, or any other authority deemed most appropriate, to select a passage

for the pure air from the basement to the upper air-chamber, which can be spared with the least inconvenience; that is, if the passage laid down on the plans for the Senate wing be not approved of. With this exception, it will be perceived by the drawings that this plan for securing good ventilation, &c., interferes with nothing in the halls that can be visible under the level of the cornice of the present ceiling which surrounds the halls of Congress; everything below that level will remain as at present arranged. According to this plan there will be two objects attained: first, to establish what is required by the concurrent resolution; and, second, that it may be effected with as few changes and at as small an expenditure of time and money as is possible. Such a change, however, in the present halls of Congress might be considered cheap at any cost, as it will insure the health of the nation's representatives.

3. This plan will furnish a good and agreeable direct light by day from windows opening on the exterior atmosphere, with a steady, clear gas-light by night, descending through the present glass-paneled ceiling, as elevated, but without the accompanying heat produced by the great number of gas-burners at present distributed all over the ceilings of the two halls of Congress, numbering about one thousand four hundred over the ceiling of the House of Representatives alone, the effect from which renders the heat of the glass and iron ceiling particularly oppressive.

To remedy the present defects, it is proposed to raise the ceilings over the two halls of Congress about sixteen feet, which will produce much better proportioned apartments, as the height of the present ceilings is altogether at variance with architectural rule or the laws which govern architectural proportions. This change, besides improving the architectural appearance of the halls, will afford room to insert a tier of windows extending all around each hall under the cornice and over the gallery doors, as shown by the accompanying longitudinal and cross sections. These windows will be the exact size of the windows in the committee rooms on the basement floors; a direct light will be admitted through the upper half of these side windows, twenty-six in number in the House and twenty-two in the Senate, as well as a borrowed light through seven of the end windows in the Senate chamber, and through nine of the end windows in the House of Representatives. The upper half of the sashes will open on pivots, and when open will admit the air through the halls from the exterior atmosphere, but which will never be required in consequence of a sufficient supply of better air being at all seasons within command by means of the above arrangement; besides, open windows would of necessity damage the acoustics. These windows would be hid from exterior view by the erection of the high parapet, (called an attic in architecture,) on which will be placed the present balustraded battlement, and which is recommended in Senator Foot's report as necessary to relieve the present bad effect of the upper monotonous straight line of the whole building, which is at variance with Roman architecture, (the style of the Capitol building.) The increased elevation of the wings is further called for in consequence of the enormous size of the new dome, (copied from the dome of St. Paul's in London,) the new dome of the Capitol being fully one-third larger than it should be if constructed in accordance with the rules which govern the order of Roman architecture to which the Capitol building belongs. A dome is a prominent ornament to a classic structure, but always subordinate to the proportions and style of the building; but in our case the building is made subordinate to the dome. The published remarks of an educated northern tourist are particularly applicable, when he terms it, "The great dome, with the low buildings beneath, which form the Capitol of the United States." The base of this new dome is actually made to project beyond the front walls of the building, and rest on the projecting portico which forms the principal entrance to the rotunda. To elevate the wings will in some measure disguise this architectural blunder.

Thus it will be perceived that by this one plan two great objects will be effected—better light will be given and better proportions to the halls, and at the same time it will materially improve the exterior architectural appearance of the building. (See accompanying sections and elevations.)

The new windows will be filled in with stained glass, which will produce a soft and agreeable light.

It is proposed to light the Senate chamber at night by means of eight circular burners of Frink's patent, with powerful reflectors, one placed over each; and the House of Representatives with thirteen circular burners, having a reflector over each, by which means the light can be increased to any amount desired, and the present objectionable heat from the great number of unprotected burners on the ceiling will be altogether done away with, as there will be placed over each reflector a copper dome, surmounted by a copper chimney eight inches in diameter, passing out vertically through the roof, which must attract all the heat upward, while it reflects all the light downward; to elucidate which the undersigned submits the accompanying drawings of Frink's patent reflectors, which he would recommend as the best means of lighting the halls of Congress.

The air which this plan introduces through a register from the upper air-chamber into the open space between the glass ceiling and the new counter-ceiling, will increase

the draught upward from the burners under these reflectors and over the glass ceiling, through the flues over the reflectors, which will remove the possibility of communicating any heat from the burners to the glass ceiling, while the counter-ceiling will protect the glass ceiling from the influence of heat or cold from the exterior atmosphere.

The undersigned begs leave to submit a drawing of Reigart's improved fan-wheel, by which he proposes to supply and control the pure air to be furnished to the halls, and to draw the vitiated air therefrom.

He also begs leave to submit specifications and detailed estimates for the construction of the different works more fully described by the plans for the alterations, which he has the honor to submit, in obedience to the instructions of the honorable joint committee.

To remove all apprehension upon the subject, the undersigned would respectfully state that these plans will not interfere with the present condition or appearance of either of the halls below the level of the present glass ceiling, while the arrangements above will establish better architectural proportions, symmetry, and beauty to these halls—a desideratum which he trusts it will not be considered out of place for him to say would have been effected in the original construction of the north and south extensions of the Capitol had his plans been fully and fairly carried out.

Desiring to confine this report to a plain and simple statement of what has been required of him by the joint resolution and the directions of the joint committee, the undersigned has omitted to introduce any reference to the authorities sustaining the principles of the plans which he has the honor to propose; but to aid the judgment and strengthen the opinions of this honorable committee and those of the honorable members of the two Houses, who are so deeply interested in the subject-matter under consideration, he would beg leave to append notes, communications, and reports of high authorities, thereby removing the idea of any presumption on his part of presenting a plan whose principles had not been fully approved by science and practical experience, and which approval the undersigned made himself fully aware of before he submitted his first design, in answer to the published invitation to the architects of the United States, in the year 1850, by practically investigating the different systems for ventilating public buildings in Europe, in particular the Bank of England, the United Service Club House in London, the new British Houses of Parliament, the Millbank Penitentiary, and the Pentonville Model Prison. He investigated the system of ventilation adopted in the two last-mentioned establishments under an order from the home secretary, Sir James Graham—which order will be found recorded in the visitors' book during the summer of 1845—a copy of which could be had upon application in London, which would at once prove his practical experience of this system which he has throughout advocated. Under these circumstances, the undersigned can with confidence assure the honorable committee that there can be no possible doubt as to the result, and it will be possible to successfully carry out the necessary alterations during the interval between the end of the present Congress and the regular annual meeting of the next Congress.

For the more minute and particular explanation of his plan, the undersigned begs leave to submit the following drawings, viz:

Senate Wing.

No. 1.—Plan of sub-basement floor, showing the alterations.
No. 2.—Plan of basement floor, showing the alterations.
No. 3.—Plan of the principal and upper floors, showing the alterations.
No. 4.—Longitudinal section of wing, showing the alterations.
No. 5.—Cross section of wing, showing the additions.
No. 6.—Section showing the vertical air-passage.
No. 7.—Plan of air-ducts over the ceiling.
No. 8.—Front elevation of north wing, showing the attic.
No. 9. Drawing of Reigart's improved fan-wheel.
No. 10. Drawings of Frink's patent reflector.

House of Representatives.

No. 11. Plan of sub-basement floors, showing the alterations.
No. 12. Plan of basement floor, showing the alterations.
No. 13. Plan of principal and gallery floors, showing the alterations.
No. 14. Longitudinal section, showing the additions.
No. 15. Cross section, showing the alterations in roof.
No. 16. Section showing the vertical air-passage.
No. 17. Plan of the air-ducts over the ceiling.
No. 18. Elevation of the south wing, showing the additions.
No. 19. Estimate, &c., from competent parties.

All of which is most respectfully submitted by

CHAS. FRED. ANDERSON,
Architect and Civil Engineer, Washington, D. C.

DECEMBER 5, 1864.

REPORT OF CAPTAIN MEIGS.

OFFICE OF THE EXTENSION OF UNITED STATES CAPITOL,
Washington, May 19, 1853.

DEAR SIR: Having verbally, in my interview with the President and yourself, fully explained the proposed changes, with the aid of large drawings, showing the accommodation to be afforded, it is not necessary here to enter into detail. [*These were the drawings furnished by C. F. Anderson.*]

I will only repeat my own conviction, that the proposed change will secure a better room for speaking and hearing, and better accommodations for the members and officers, and business of the House.

I have prepared some notes upon the application of the general principles of acoustics and ventilation, which have guided me in devising the plan which I propose. They contain the views I expressed to you verbally, and which I propose to write out for submission to some gentlemen of eminent scientific reputation.

While I feel confident that I am correct, I shall be happy to be sustained by their approval if right, and will be much better satisfied to be corrected if wrong, than to be permitted to go on and fail in so important an undertaking.

The changes which I recommend in the plan of the south wing, in order to carry out the above views, are shown upon drawings which have already been explained to you.

I would like to have an opportunity to show them to the gentlemen to whom you will refer these notes.

To lay down general principles correctly is not sufficient security that the application of them will be judiciously made.

I am, sir, very respectfully, your obedient servant,

M. C. MEIGS,
Captain of Engineers in charge of Capitol Extension.

Hon. JEFFERSON DAVIS,
Secretary of War.

Extracts from "Notes on Acoustics and Ventilation with reference to the new halls of Congress," by Captain Meigs, United States Corps of Engineers, May, 1853.

Experience shows that the human voice, under favorable circumstances, is capable of filling a larger space than was ever probably inclosed within the walls of a single room.

If sound be prevented from spreading and losing itself in the air, either by pipe or an extensive flat surface, as a wall or still water, it may be conveyed to a greater distance.

A pure atmosphere being favorable to the speaker's health and strength, will give him greater power of voice and more endurance; thus indirectly improving the hearing by strengthening the source of sound, and also by enabling the hearer to give his attention for a longer period unfatigued.

The common mode of warming and ventilating public rooms is fatal to perfection of hearing.

One or several columns of intensely heated air are introduced through holes in the floor. Being much warmer than the air of the apartment, they immediately rise to the ceiling. If the exit apertures for foul air are above, this fresh and heated air above escapes, having done nothing for the apartment except to cause whirls and currents, such as we see in a column of smoke passing from a chimney on a calm day. The irregular refraction of sound through these currents of equal density tends greatly to produce confusion.

If the exits for foul air are below, the hot air accumulates at the top of the room, and, gradually displacing the cooler air, forces it out through the passages.

Professor Reid relates that he has found the air near the ceiling of a room at the boiling temperature, while those on the floor were complaining of cold.

Here we have a strata of different densities and unequal refractive power, and hence confusion of sound.

As the warmer air must ascend to the top of the room, I propose to let it do so in a large trunk outside of the apartment, pass into a space above the ceiling, and thence, by numerous holes, find its way, as through a sieve, into the room.

By a steam-driven fan, or other mechanical means, we can pump air, in any desired quantity, into any spot into which we choose to direct it.

I would drive all the air required for the supply of the room through a maze of hot-water pipes, raising the whole of it to the temperature desired—60° or 80°, as the case might be.

If the room be 30 feet in height, and it be desired to change all the air in it every fifteen minutes, enough air should be pumped in above to cause a general descent of the whole body of air in the room, at the rate of two feet a minute.

This would be an imperceptible current. The exit should be by numerous holes in the floor, perhaps through the carpet, or the risers of the platforms on which are the members' chairs.

Three important advantages would thus be gained: The avoidance of all eddies, a nearly homogeneous and tranquil atmosphere, and the immediate removal downward of any dust from the carpet, which would thus be prevented from rising, to be inhaled into the lungs.

To prevent the disturbance and contamination of the atmosphere by the gas-lights, I would place them above the glass of the sky-lights—the space between those in the ceiling and those in the roof being separated from the chamber into which the fresh air should be admitted.

In summer the same apparatus which sends in warm air in winter would supply a constant breeze; and, if the temperature of the external air was too high, it might be cooled by jets of water from pipes in the passages, or even by melting ice.

I feel confident that, by observing the above prescribed precautions, we will obtain rooms as near perfection as is possible—"rooms in which no vitiated air shall injure the health of the legislators, and in which the voice from each member's desk shall be easily made audible in all parts of the room." [*This was Mr. Anderson's plan.*]

This was the problem proposed to me for solution.

In conclusion, I have the honor to repeat the request made verbally some days since, that the above notes and observations may be submitted to some persons of scientific reputation, the weight of whose authority may sustain me if I am right, or correct them if wrong.

Respectfully submitted to the honorable Jefferson Davis, Secretary of War, by his obedient servant,

M. C. MEIGS,
Captain of Engineers, in charge of Extension of United States Capitol and Washington Aqueduct.

Subsequently, the subject having been referred to Professors Bache and Henry, those gentlemen addressed a communication to the Secretary of War as follows:

SIR: The undersigned have examined, as you requested, the principles proposed by Captain M. C. Meigs, of the Corps of Engineers, with reference to the acoustics, heating, and ventilation of the hall of Representatives.

They are now prepared to report that the principles presented to them by Captain Meigs are correct, and that they are judiciously applied.

They are of opinion that the plans should be provisionally adopted, in order that the building may not be delayed, subject to such modifications in the details as may result from the further study of them by Captain Meigs, or from the experiments and observations of the commission.

This general adaptation of the plans will not, it is believed, interfere with any changes of details likely to be found desirable.

Very respectfully, yours,

A. D. BACHE.
JOSEPH HENRY

Hon. JEFFERSON DAVIS,
Secretary of War.

ESTIMATES.

Senate chamber—abstract estimate.

Altering roof and raising ceiling, &c	$27,979 20
Scaffolding and machinery for all work	10,000 00
Brick-work in raising the chamber walls	11,929 05
Air-ducts over the ceiling, two thicknesses	5,593 00
New windows round Senate chamber	3,600 00
Belt course under the windows	784 00
Gutters and eve cornice	3,700 00
Remodelling flank roof and gutters	5,000 00
Workmanship on attic walls and balustrade	37,500 00
Mason's work in alterations air-shaft and tunnel	20,000 00
New steam-engine	2,000 00
Two new fan-wheels	3,000 00

Eight reflectors, fixing, and pipes	$9,600 00
Rearranging, rarefying steam-pipes, &c	5,000 00
Lining upper air-chamber so as to make it water-proof, with hot and cold water-pipes and sieve the entire length	5,000 00
	150,685 25

The above calculations are made at the present prices for labor and materials.

CHARLES F. ANDERSON,
Architect and Civil Engineer.

Hall of Representatives—abstract estimate.

Altering roof and raising the ceiling, &c	$38,970 10
Raising the brick walls round the hall	13,925 45
New windows round the hall	4,400 00
New belt course under windows	928 00
Air-ducts over ceiling, two thicknesses	6,783 00
Gutters and cave cornice	4,500 00
Remodelling flank roof and gutters	6,000 00
Workmanship on attic wall and balustrade	37,500 00
Alterations in mason's work, air-shaft, and tunnel	15,000 00
A new steam-engine	2,000 00
Two new powerful fan-wheels	3,000 00
Thirteen reflectors, including fitting and pipes, &c	15,600 00
Rearranging, rarefying steam-pipes, &c	3,000 00
Lining upper air-chamber so as to make it water-proof, with hot and cold water-pipes and sieve	5,000 00
Scaffolding and machinery	10,000 000
	166,606 55

The above calculations are made at the present prices for labor and materials.

CHARLES F. ANDERSON,
Architect and Civil Engineer.

Estimates and proposals for altering and raising the roofs and ceilings of the Senate chamber and hall of Representatives; the brick walls surrounding these apartments, and the windows within these walls; the large air-chambers with their water arrangements; the air-ducts over the ceilings, and the workmanship of covering the roofs complete; also all necessary scaffolding, and temporary roofing for protecting the interior of these chambers during the progress of the work; all to be done substantially, in a workmanlike manner, and completed in strict accordance with the plans and printed specifications prepared by C. F. Anderson, architect, and subject to his approval.

In altering these roofs, it is proposed to use the main ties in their present form, as these are known to be composed of excellent material, and to have been tested to the extent of ten thousand pounds strain to the square inch of cross section; but the rafters and braces will be altered, and made to conform to the improved roofs, and there will be seven-eighths added to the size of the rafters, so as to give to them a cross section of fifteen square inches—seven inches more than the old rafters have. This will make their strength *practically* equal to that of the ties with which they are connected, which is not the case with the old rafters; having only eight inches in cross section.

The engineer of the old roofs made a grave mistake in making the sizes of the ties and rafters nearly equal. He seems to have acted upon the theory that, as the tensive strains in the ties and the pressure in the rafters are about equal in magnitude, and as it is known to require about equal magnitudes of positive and negative forces to crush wrought iron by pressure, and to tear it asunder by tension, that therefore the sizes of the rafters and the ties must also be equal to give to them corresponding strength. But he seems not to have considered the facts developed in practice, that rafters formed and acted upon as in these roofs, will fail by lateral deflection under much less pressure than is required to *crush* the material of which they are composed, and that the corresponding amount of tension due to the ties cannot, by deflection or distortion of any kind, impair their normal strength. Therefore, though *theoretically* right as to the magnitude of the forces acting in opposite directions in the rafters and in the ties, yet, in not providing for the difference in their effects, has resulted in *unscientific* construction, in roofs that have, practically, not more than half the strength that theory assigns to

them. This error will be obviated in the proposed roofs by adding seven-eighths to the size of the rafters, while the ties remain unchanged.

For the purpose of ascertaining to what amount of strains the parts of the modified roofs may be subjected, and thereby determine the sizes and strength required for each part, I have made a computation of the weight of the roofs, with the ceilings, and such other parts as will be sustained by the roofs; and I find these to be equal to 53 pounds to each square foot of horizontal surface covered, to which I add ten pounds to the foot for possible loads of snow—total, 63 pounds to the foot. This is a large allowance for snow in this climate, and the high and open position of these roofs will preclude the possibility of drifts collecting upon them. The roofs, thus loaded, will produce tensive strains in the ties equal to 8,784½ pounds to the square inch of cross section, and 4,685 1-15 pounds pressure to the square inch in the rafters; which is only about one-seventh of the ultimate strength of good iron. The other parts will be similarly proportioned as to size of parts of the strains.

SENATE CHAMBER.

Altering roof, raising it, and the ceiling, as per plan	$27,979 20
Gutters and eave-cornice round the raised roof	3,700 00
Brick walls around chamber, as per plan	11,929 05
Scaffolding and temporary roofing so as to protect the old work	10,000 00
Remodelling flank roofs and gutters, as per plan	5,000 00
Lining upper air-chamber, so as to make it water-tight, with hot and cold pipes, and sieves	5,000 00
Air-ducts over ceiling, two thicknesses	5,593 00
New windows around the chamber, as per plan	3,600 00
Belt course under these windows, as per plan	784 00
Mason work in tunnel and in new air-shaft	20,000 00
Rearranging rarefying steam-pipes, &c	5,000 00
Work on attic walls and balustrade	37,500 00
	136,085 25

I will execute this work, as above set forth, for the sum of $136,085 25, and will give ample security for the due performance thereof.

BENJAMIN SEVERSON, 359 *E street.*

WASHINGTON, *December* 2, 1864.

HALL OF REPRESENTATIVES.

Altering roof, raising it and the ceiling	$38,970 10
Gutters and eave-cornice round the raised roof	4,500 00
Brick wall around the hall, as per plan	13,925 45
Scaffolding and temporary roofing for protection	10,000 00
Remodelling flank roof and gutters, as per plan	6,000 00
Lining upper air-chamber so as to make it water-tight, with hot and cold water pipes, and sieves	5,000 00
Air-ducts over ceiling, two thicknesses	6,783 00
New windows around the hall, as per section	4,400 00
Belt course under these windows, as per section	928 00
Mason work in tunnel, and air-shafts, also alterations	15,000 00
Rearranging rarefying steam-pipes, &c	3,000 00
Work on attic walls and balustrade	37,500 00
	146,006 55

I will execute this work as above set forth for the sum of $146,006 55, and will give ample security for the due performance thereof.

BENJAMIN SEVERSON, 359 *E Street.*

WASHINGTON, *December* 2, 1864.

NOTE.—While these pages are going through the press, the attention of the committee is directed to an elaborate report upon ventilation by Messrs. Shedd and Edson, civil engineers, to a committee of the Massachusetts house of representatives, dated January 1, 1865. Copious extracts from this valuable paper are given in the succeeding pages, upon the questions of moisture in the air and the downward movement in ventilation. The views presented by this committee in the foregoing report receive in

those extracts an intelligent and weighty indorsement. The actual and successful application of the downward movement by General Morin in the hall of the Conservatory of Arts and Trades, and by Mr. Gurney in the houses of Parliament, and in court-houses and other public buildings in England, must be regarded as satisfactory and decisive in favor of the conclusion to which the committee have arrived. In fact, the current of authority at this time, as well as sound reason, is for the proposed plan.

Extracts from the report on ventilation of J. Herbert Shedd and William Edson, esquires, civil engineers, made to a committee of the Massachusetts house of representatives, Boston, January 1, 1865.

MOISTURE IN AIR.

Scientific and medical authorities generally concur in the opinion that in-door air after heating. should contain nearly the same proportion of moisture as the average of out-door air of the same temperature; but when air is brought in from out of doors at a temperature of zero, and raised by heaters to 68°, it would require the addition of of $4\frac{348}{1000}$ grains of water per cubic foot of air to bring it up to the required degree of moisture. For the proper moistening then of fresh warmed air introduced at the rate of twenty cubic feet a minute for each one of three hundred persons two hours, the air taken at zero and at the average degree of moisture, no less than fifty-nine gallons of water would require to be added.

* * * * * * * * * *

Exactly how much vapor, or what per cent. of moisture, is the most healthy, has not yet been determined. From much observation, we have taken 65 per cent. of saturation as the amount most likely to prove healthy.

The mean relative humidity of the air at Philadelphia for the year 1863 was 67.2, and the mean annual average for twelve years, 68.5.

THE DOWNWARD MOVEMENT.

The essential point of ventilation is constant change of air, the removal of the air that becomes laden with the secretions of the body, and its replacement by fresh air. In nature this change is generally effected by currents of wind that rapidly sweep away and renew the air. In addition, according as the air is cooler than the body, the portion coming in contact with the person is warmed, and, becoming lighter than the rest, has a tendency to rise and give place to new air. This tendency is shown by a sensitive wind-wheel, in low temperatures, at the distance of a few inches from the body.

The heat of the breath also has been assumed to be the special provision for its removal and replacement with fresh air. This has been a favorite theory even among scientific men. Mr. Gurney was one of the first to stoutly deny the fact; in his testimony before committees of Parliament in 1854, he asserted that the downward propulsion which the breath received by the position and direction of the nostrils did not cease, so far as the impurities with which it is laden are concerned, till it deposited them on the ground. We have not been able to verify Mr. Gurney's assertion, that on a frosty day the vapor from a person's mouth may be seen to describe a parabolic curve to the ground; but any one may see the vapor of the breath driven from the nostrils taking at first a downward course. A breath of fair strength, with the thermometer near the freezing point, may be seen by its condensed vapor, driven downward and slightly outward, for a foot or more. The subjoined sketch is an accurate representation of the visible breath seen in air of 26° Fahrenheit, the rate of breathing being twenty-one to twenty-two times a minute. [The figures omitted.]

In this observation, the wind-wheel moved rapidly near the body, and steadily at a distance of six inches in front, and also at two feet above the head. Notwithstanding this upward current, the breath was strongly marked by the condensed moisture, fourteen inches below the nostrils, and would doubtless have been seen further down but for the dissipation of the moisture. In a room with the air at 65°, the same wind-wheel was in motion close to the vital parts of the body, but stopped entirely at two or three inches distance from the body, or above the head. This was to be anticipated, because the force that carries the wheel is the rising of the air in consequence of its greater heat and lightness than that of the surrounding air, and is proportioned to the difference of temperature.

In order to determine the amount of heat operating to cause the air to rise, a thermometer was placed within the clothing near the vital parts of the body, where it was found to stand at 82°, while the person remained in air at 65°; on going into air at 20°, with additional clothing, the thermometer stood at 76°. The air around the body in a warm room, therefore, would rise with a force not far from 17°, while in outer air at

20° it would rise with a force not far from 56°. In point of fact, we suppose the air would rise with a velocity somewhat less than these figures, but, relatively, we think they are nearly correct. A more sensitive instrument would have been affected at a greater distance, but the same wheel showed a distinct downward motion of the breath 15 inches below the nostrils, in opposition to all the rising tendency, by reason of the warmth of the breath and of the air about the body; and this motion also would have been shown to a greater distance by a more sensitive wheel.

Let us now suppose, to be well within bounds, the breath to be moved 12 inches below the face. The downward motion having ceased, the upward motion should then begin which is to carry the breath up out of the way. This old breath has about one second in which to rise, from rest or reverse motion, more than 12 inches, in order to be out of the way at the next inhalation. The difference of temperature necessary to give the breath this movement of 12 inches in the first second, if the breath rises by heat alone, will surprise any one not familiar with such calculations. It is not less than 180°; that is to say, the breath, in order to start from rest and rise 12 inches in one second through air at 65°, would have to be at a temperature of 245°.

The absurdity to which this calculation and experiment reduce the idea that our breath is carried away from the face by its upward tendency from heat, is increased by the observation, which every one may make, that a thermometer at 65° cannot be raised more than 1° by breathing upon it at 9 inches distance, and that at 10 inches no effect can be perceived. But the upward tendency of the breath is doubtless much increased from the diffusion and lightness of its aqueous vapor, and possibly from other causes, though, under the most favorable circumstances, all causes combined are not sufficient to carry the expired breath up out of the way before another inhalation, as may be seen on a frosty day; and it is evident to all that the air contaminated by the body, if carried upward, must in some measure be inhaled.

The fact, then, in regard to the removal of the expired air from the face is rather the reverse of the theory that it is carried upward out of the way. It is carried downward at ordinary temperatures with force, as of a steam-jet, that, for aught we know, deposits it with its impurities, as Mr. Gurney says, at the floor. Though we have not traced its descent more than a third of the distance, a calculation of its downward impulse shows it to be sufficient to overcome all the upward tendency of its own heat, and that of the air about the body to a considerably greater distance than that of the floor. The supply of fresh air for inhalation comes in from above and about the face, to supply the partial vacuum created by the downward jet; and in this jet, as Mr. Gurney has pointed out, not in the upward tendency of the warm breath, is the admirable provision of nature for carrying away the expelled air before more is to be inhaled.

We are not, however, to conclude that the rising force imparted to the air about a person, by heat of skin and lungs, is absolutely nothing, although in warm rooms it is practically of small account. More heat is given off from the body by radiation than by contact of air. Inclose a person in a non-conducting cylinder not much above his size, and the accumulation of heat about him would give some force to the air. And so, in an assembly, the heat accumulated around and among the persons gives the air a certain amount of rising force. Taking for a basis Péclet's estimate of the amount of heat given off by an individual in moderate temperature, the upward force given to air by three hundred persons in an hour would be equal to the power of five pounds of coal. This is an extreme outside calculation of the force of the heat imparted by the body. If the usual deductions should be made for the wasteful manner of this application of heat to raise the air, less than half this amount of coal would be seen to balance the elevating effect on the air of three hundred persons.

Yet, on the assumption of an effective lifting power in the heat given off from the body has been based the prevailing system of ventilation—that is, of taking the fresh air in at the bottom of the room and the foul air out at the top. This is claimed to be the natural system, and, therefore, the cheapest and best. The claim is admissible in cases where no power exists to change the air except this slight difference of temperature; but what becomes of it in cases where tons of coal are burned a day for the sole purpose of producing a power to move the air, and where, as is common, all the air taken out at the top is brought down again in pipes to the ground before being sent off through a chimney shaft? Is it not more natural, cheaper, and better to go on as nature begins, and take the foul air of breath and body directly down through the floor to its exhausting chimney?

These two theories of ventilation have been often argued and both practiced with varying success. We will consider the circumstances of a large hall of assembly, and show the operation of the two systems.

We must suppose a floor well packed with people, at the bottom of a cubical or hemispherical hall; suppose them to have entered at once, the hall being previously filled with pure air; directly the whole lower stratum of air, in which the audience are, is contaminated by their exhalations and emanations. Now, the problem is to get that stratum of air out of the hall before any of it can come to use again, and to replace it with fresh air of the right temperature. It is obvious that it cannot be taken out side-

ways, because then many would have to breathe over again the breath of others. It can be taken only either up or down. If it is taken up, the fresh air that is to supply its place must enter at the floor from which the foul air rises, for no air will leave a spot till other air is ready to fill its place. In order then to lift the whole of the foul air bodily from the floor, it is necessary that the whole floor should be open for the admission of fresh air. Wherever there is a piece of solid floor through which the air cannot pass, there will be a dead space of foul air above it, which will not rise with the rest, but will remain to be gradually mixed with the fresh air entering around it. If the dead space is considerable, the whole amount of air required must enter in the limited space of the openings, and the velocity must be proportionately increased. According as this space is reduced and the velocity increased, the air entering has a force that carries it up beyond the place where it is to be used, and mixes it with the foul air passing off; a part of which mixture will return in counter-currents and gradually replace the air in the dead spaces. The operation may be seen by a simple experiment.

Take a bucket-full of turbid water and lower it into a tub of clear water of equal temperature and density. If the bottom of the bucket could be removed without disturbance, the sides might be lowered gently and the clear water would replace the turbid water in the bucket completely, without much mixing. So, too, if the bottom of the bucket is entirely perforated, leaving very slender partitions between the perforations, the clear water may replace the turbid with little disturbance and mixing. But if the perforations are limited to holes of, say, half the space in the bottom, on pushing down the bucket the clear water will rush up into the midst of the turbid water, and the turbid water on the solid spaces of the bottom will remain, till, mixed by friction and counter-currents with the pure water, it is gradually carried up. The fewer and smaller the holes the longer the turbid water will remain in the dead spaces; and if its turbidness is from a constant source, it will be likely to increase rather than diminish.

Dr. Reid, the most scientific and experienced, perhaps, of the advocates of the upward system, seeing this necessity for introducing his fresh air through the whole extent of the floor, when, after experience in the temporary houses of Parliament, he was called upon to arrange the ventilation of the new House of Commons in Westminster palace, had the entire floor made of perforated iron. This was afterward covered with haircloth carpeting, and through nearly its whole extent the fresh air was admitted. No expense was spared, and the system was tried for some years under the most favorable circumstances. The result was that on account of the raising of dust by the entering air, and still more on account of the uncomfortable draughts brought up against the honorable members' legs, nine-tenths of the floor came to be covered with sheet lead under the carpet. And when the entrance for fresh air was thus limited, it being through the carpet but a fraction of the nominal extent, complaints became so loud both of strong currents and of foulness of air that the whole matter of ventilation was turned over to Mr. Goldsworthy Gurney, who undertook it on the opposite system of introducing the fresh air above and taking out the foul air at the floor.

In the French Senate chamber, formerly supplied with fresh air through the rising steps behind the members' seats, these openings were closed because of the draughts about the senators' legs, and, according to Morin, in 1862, they had no ventilation at all.

Such are some of the difficulties of changing the air of a crowded hall by introducing it at the bottom and taking it out at the top. To avoid them, Sir Charles Barry, the architect of the new houses of Parliament, introduced his main supply of fresh air in the House of Lords through the middle compartment of the ceiling, expecting it to descend to the floor, then to rise at the sides, and to be taken out in the side compartments of the ceiling. This was expecting too much of atmospheric nature, and, after a few years' trial, this hall, too, was given over to Mr. Gurney, who proposed to take the air out at the floor. We shall not dwell on the system of taking both the fresh air in and the foul air out at the top, or on that of taking the fresh air in and the foul air out at the bottom, because these systems, to be equally effectual, must double the amount of current that would be caused by taking the air in one way and out the other, and are for that reason not to be recommended for large halls, where the great difficulty is to change the air fast enough without making unpleasant currents.

Introducing the air at the upper part of a hall and taking it out at the bottom, known as downward ventilation, has certain obvious advantages: 1. It takes the emanations of the skin and lungs out of the room immediately after they are given off, before they have a chance to be inhaled. 2. Consequently, the fresh air coming unimpaired directly to the heads of the audience, a much less supply is required to secure the freshness of what is inhaled than is necessary when the air is brought first to the feet or becomes mixed with foul currents. 3. The warm air introduced has the opportunity of spending something of its heat on the ceiling and walls before it comes to be breathed, instead of being breathed at its highest temperature. 4. The fresh air is diffused over the whole area of the hall, even if introduced through few apertures,

before reaching the audience; by which means the air is brought upon them more gently than if it came directly upon them through limited apertures. The greater the number and area of apertures for the exit of the foul air at the floor, the better, and the less will the current be felt. But this current, being downward, will always be felt in a much less degree than a similar current upward about the legs, for obvious reasons; and the dust and odors of the floor will be carried down instead of up into the air to be breathed.

For illustration of downward ventilation, take, as before, a bucket of water, turbid near the bottom, and sink it in a tub of clear water. Suppose the bottom to be well perforated, or even but partially so, clear water coming in at the top, as the bucket is raised, will force out the turbid water very effectually at the bottom, whatever may be the position of the openings at the top. In other words, air passing through a room will drive out more thoroughly and uniformly the air at the side at which it goes out than that at the side it enters.

The gain effected by bringing the fresh air to the face, to be breathed before it sweeps the body, is quite important. It may be estimated by considering how much less supply of fresh air would be sufficient for a man inclosed in a cylinder just large enough to hold him, in case the air came down to his head first, than in case it came to his feet first, and up by his body to the face. A crowded assembly may be considered as a set of such cylinders, closely packed together, with their occupants like bees in their cells. The great advantage, in point of economy of freshness, of sending the air downward, instead of upward, is here very apparent; and it is obvious that in the one case may be obtained perfect purity of the air, while in the other it can never be more than an approximation.

The heating of the walls, ceiling, floor, and furniture of a hall is of great importance. Otherwise, very hot air will not suffice to keep the occupants comfortable. If, as in most cases, this heating is to be done by the warm air alone, the more there is accomplished before the air is breathed the less will be the comparative heat of the air entering the lungs.

This we consider in itself a decided advantage, and it is obtained in greater degree when the warm air is introduced above than when it enters at many points through the floor.

When the air is introduced at the top of a hall and drawn out at the bottom, it is rapidly diffused through the whole upper space, and then begins to descend slowly and very uniformly to the floor. This is the case even at present in our Representatives' hall, where the warm air enters at a single opening above the Speaker's chair. This air rises at once into the dome of the hall, as seen by experimental balloons, where it is quickly diffused, and then descends almost vertically in all parts of the hall to the floor. This arrangement, though designed only as a temporary and experimental step to the still better plan of introducing the air directly into the dome, proves, in a degree, that much greater gentleness and uniformity of motion, with freedom from needless currents, may be obtained with downward ventilation than it is possible to have with upward ventilation; for, in the latter, the rising air can occupy but very much less space, must have, at the level of the audience, proportionally greater velocity, and must alternate with additional counter-currents.

The objections to the downward system are: 1. Its supposed antagonism to the natural laws of upward movement of heated air. 2. The supposed greater heat of the upper air in the hall under that system.

The first objection we have already sufficiently considered. Practically, even those who favor upward ventilation admit that there is no difficulty in taking the foul air out at the bottom by the application of a moderate force; and nothing in the art of ventilation is more universally admitted than the necessity, under any form of ventilation, in all public buildings, for the employment of some special power.

Nor is the objection strengthened materially by the common impression of greater foulness at the top than at the bottom of a crowded room. There is some truth in this impression in regard to rooms which have no ventilation, though most careful experiments by eminent chemists fail to show any considerable or uniform increase in carbonic acid in the upper part of crowded halls; perhaps as many experiments have shown the greater amount at the bottom as have shown it at the top. What slight increase there may sometimes be at the hottest state, is probably more than lost as the heated carbonic acid cools, and, to some extent, sinks from its weight. Sensitive observers, too, have found that though the upper portion of a heated, ill-ventilated hall smells most offensively, and, from its heat, is oppressive, the lower portion most seriously affects their state of health. In our Representatives hall there has been the most serious complaint of oppression on the lowest portion of the floor, around the Speaker's desk. In point of fact, we believe, the idea of the greater foulness of air at the top arises mainly from crowded evening assemblies, where the heated products of combustion from gas-lights contaminate the upper air to a great extent.

It is of the utmost consequence that these products should have some direct means of removal. This is provided for in the best ventilated halls by so disposing the gas-

burners that they may have direct and independent outlets for their smoke and gas. Another obvious explanation of the frequent greater impurity of the upper air in crowded, ill-ventilated halls is that, without special force of supply, there is always a rush of fresh air into the hall through the doors as they are frequently opened; this air being cooler, of course, forces the warm foul air upward. After all, the greater heat at the top of the room is probably the chief cause of the impression of greater foulness, though with the heat may be associated some light odorous gases. But all this is of no importance against systematic downward ventilation. When the foul air is taken off at the bottom, it is no longer found in excess at the top.

Morin's very accurate experiments in the smaller hall of the Conservatory of Arts and Trades, ventilated from above downward, show, on the average, a scarcely perceptible difference between the temperature of the air above and that below. In our own Representatives hall, where now the warm air is introduced thirteen feet above the Speaker's platform, and the foul air taken out at the floor, though the arrangements for supply and exhaust are, at present, quite limited and much less than we should desire, we have found as the average of over five hundred observations in eighty-six different positions, with the exhaust ducts open, the temperature opposite the gas-burners above the gallery only about two and one-half degrees above the average throughout the hall; while that of the lower seats was not two and one-half degrees below the average. When, however, in the midst of these observations, the exhaust ducts were temporarily closed, the difference soon doubled, though the whole average temperature was slightly lowered.

To give these results more in detail:

Observations in level planes.	Ventilating ducts.	
	Open.	Closed.
Average in dome of hall	78°.5	85°
Average opposite gas-lights above gallery	71°.46	73°.54
Average opposite gas-lights below gallery	68°.57	66°.50
Average in the seats	66°.63	63°.72
Average throughout the hall	68°.86	68°.17

It is essential to the system of downward ventilation, as well as to all other systems, that a constant current should be maintained by keeping the inlet and outlet always open. When less heat is desired, the change must be effected, not by stopping the warm-air inlet, but by letting into it cooler air. And when the heat of the room goes off too fast, especially when it is empty, the heat may be economized by letting the air at the floor back into the heating chamber instead of out of doors.

In support of the downward system we will only refer to Mr. Goldsworthy Gurney's testimony before the committees of both houses of Parliament who has for the last ten years had charge of the ventilation of the houses of Parliament, and who has introduced the downward system with great success in court-houses and other public buildings in England; to the book of Mr. Ruttan, of Canada, who has introduced the system most successfully in railway cars, on some of our roads, as well as in buildings; and to the conclusions of General Morin, well known for his valuable scientific works on different departments of engineering, and the author of the latest and most elaborate work on ventilation, (Études sur la Ventilation, Paris, 1863, 2 vols., 8vo., pp. 1017.)

General Morin says, in treating of the ventilation of large halls:

"The numerous observations which I have gathered, and which any one may repeat, have shown me, as I have already said, that there are very sensible inconveniences in making the new air, warm or cold, enter near the occupants of a hall.

"This air is always necessarily at a temperature different from that of the hall; warmer, if it is desired to raise or even sometimes to maintain the inside temperature, as is the case in winter, to compensate the cooling effect of the walls, and when there are few present; and, on the other hand, cooler, if the outer temperature is somewhat high, and if there are many occupants.

"In the one case, as in the other, the neighborhood of the apertures for the entrance of air is disagreeable, and, whatever care is taken to limit the velocity by giving the apertures the greatest possible extent, it is seldom that the velocity can be less than 1.3 to 1.7 feet per second, from which there is sometimes an uncomfortable sensation."

After referring to the experience in the English House of Commons, and to that in the French Senate chamber, in both of which the apertures for the admission of air had been gradually closed, because of the objectionable currents, till ventilation had almost ceased, General Morin continues:

"It does not seem to me, then, suitable for amphitheaters, or for any other place of

a similar kind, to admit the new air through the floor, by the steps or the step-risers. On the contrary, here as elsewhere, the air should be made to enter as far as possible from the audience; and as it may be often necessary the same day, and from time to time, to vary the temperature of the air admitted, within certain limits, arrangements must be adopted which will render the mixing of warm and cold air as complete and as easy to modify as possible, before it comes in contact with the audience. This, it must be said, is the most delicate condition to well fulfill, and amphitheaters are, perhaps, the case in which the difficulty is presented in the highest degree.

"After having reflected much and observed well the various effects of the introduction and evacuation of the air, this is the solution which has seemed to me the surest, and which I have settled upon for the amphitheaters of the Conservatory of Arts and Trades. It has already been applied to one of them as completely as the local conditions would permit in a building of old construction. The vitiated air being that which it is necessary to draw out, it is desirable to hinder it from diffusing in the hall, and consequently to extract it at the spot where it is vitiated, that is to say, as near as possible to the individual occupants, through perforations in the risers, or backs of the steps, in order to make it pass out under the amphitheater.

"The introduction of fresh air presents two principal phases, quite distinct.

"In the first, which precedes the arrival of the people, the amphitheater should be brought up to a moderate temperature, which may, however, be raised to 64°.4. At this moment it is evident that the movement of air from inside to outside of the hall should be, in general, completely interrupted; and in order that there may be established throughout the hall a suitable temperature, it seems natural to allow the warm air to be introduced then by passages communicating with the heaters and opening through the floor at the lowest points.

"In the second period, on the contrary, soon after the entrance of the audience, and according to their number, more or less, we must extract a portion of the air now vitiated and more or less heated, and replace it with pure air. But this fresh air would be, as is daily observed, very uncomfortable if its temperature were much lower than that of the air of the hall, and especially if it flowed in too near the audience.

"From this results: 1. The necessity of introducing the fresh air first into a receiver, which we call the mixing chamber, where, by the simultaneous entrance of hot air and cool air, in proportions which can be easily regulated, the means are kept of admitting into the hall only air of the desired temperature. 2. The obligation, not less imperative, to place the openings for the admission of this fresh air as far as possible from the audience—that is to say, about the ceiling of the amphitheater, if the circumstances of the place permit, or at least at a considerable height. In general, whenever the construction will permit, it is preferable to bring the fresh air through the ceiling or the cornice by openings so proportioned that the mean velocity of the air will not exceed 1.3 to 1.7 feet per second."

The general rules adopted by Morin are as follows:

"1. Place the exhaust orifices as near the points where the air is vitiated as possible.

"2. Have as many orifices of exhaustion as the construction of the building will admit of.

"3. Orifices of exhaustion should be so proportioned that the velocity of air passing through them may be from 2.6 to 3.3 feet per second.

"4. Unite the different groups only by entering them into the common conduit, or into the chimney of exhaust, and as far as possible from their openings into the rooms. Arrange in such a manner that they can be easily examined and repaired. Protect from cold.

"Do not place the orifices for the entrance of fresh air near the floor; it is proved, in the French Senate, that where the orifices were near the floor, currents of *warm* air, having a velocity of from 1.3 to 1.7 feet per second, were disagreeable; currents of cold air should be avoided for much stronger reasons.

"The above is agreeable to the conclusions of both French and English engineers."

The whole discussion of the matter of ventilation before committees of Parliament for twenty years, ending some ten years ago, is full of interest and instruction; through it all Mr. Gurney appears in behalf of downward ventilation, in opposition to Dr. Reid, who, for that time, was attempting to ventilate the houses of Parliament satisfactorily on the upward system. When, in 1854–'55, the committees of both houses determined to give their ventilation into the hands of Mr. Gurney, they seem to have adopted the conclusion of Mr. Robert Stephenson, who, himself a member, was examined by a committee of the House of Commons in 1852, and testified that for a crowded hall he preferred downward ventilation, unless the gas-light should interfere; and that it was as easy to draw the air out downward as upward.

Dr. Morrill Wyman, whose little treatise on ventilation contains more scientific and sensible information on the subject than almost any other book in the English language, though he gives assent to the prevailing theory of upward ventilation, says:

"There is no impossibility, however, of producing a constant and equable downward movement, which shall also effectually prevent all respired air from being again pre-

sented to the organs of respiration. The first movement of expired air is from the mouth, horizontally, and from the nostrils, downward, before it begins to rise; consequently, a downward current may, without much difficulty, be brought to bear upon and remove it."

As regards the manner of applying power to effect the change of air, it is sometimes applied to the exhaustion of the foul air, and sometimes to the supply of fresh air. Either way is effectual in a degree, but neither alone accomplishes quite all that is to be desired. Forcing the fresh air in abundantly will drive out the air already in the hall at every outlet, and it is essential for security against the intrusion of cold currents through cracks and doorways. But it will drive the air out mainly at the easiest outlets, and some of the most important may be neglected, because of being out of the easiest way for the air to pass. The only sure way to get the air out just where you want it to go out is to apply an exhausting force at the outlets, to guide and assist the expelling force. The filling method is called the plenum method, and the exhausting the vacuum method. Much has been said about the superiority, for working vigor, of air in a plenum, or over-pressure condition. There is no doubt of the fact that under a high atmospheric pressure a man has greater power than under a low pressure. But the amount of superior pressure that can be obtained in a common hall is very slight, and can hardly have a perceptible effect. A nearly even balance of the filling and exhausting forces, making the in-door barometer about the same as the out-door, but with the filling force enough in excess to keep out all air seeking to enter without leave, is the most economical and satisfactory condition to obtain.

WARMING AND VENTILATING THE CAPITOL.

Letter from the Secretary of the Interior, in answer to a resolution of the House of the 4th instant, transmitting a report of T. U. Walter relative to warming and ventilating both houses of Congress.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., May 7, 1866.

SIR: I have the honor to acknowledge the receipt of the resolution adopted by the House of Representatives on the 4th instant, directing the Secretary of the Interior to communicate to the House the report made to him by Thomas U. Walter, late Architect of the Capitol Extension, on the warming and ventilation of the two houses of Congress, with the reports of Professor Joseph Henry and Dr. Charles M. Wetherill, accompanying the same.

In compliance with the resolution, I transmit herewith a communication on the subject to which it refers, addressed to me on the 4th instant by Mr. Walter, and the papers accompanying the same.

I am not aware that Mr. Walter, during his official connection with this Department, made any report in relation to warming and ventilating the Capitol. The papers now sent are, it is presumed, those called for by the House.

I am, sir, very respectfully, your obedient servant,

JAS. HARLAN, *Secretary.*

Hon. EDWARD MCPHERSON,
Clerk of the House of Representatives.

REPORT ON THE WARMING AND VENTILATING OF THE UNITED STATES CAPITOL, BY THOMAS U. WALTER, ARCHITECT.

WASHINGTON, D. C., *May* 4, 1866.

SIR: During the last session of Congress it was deemed expedient to institute a series of experiments to ascertain, by accurate scientific tests, the actual results of the means employed for warming and ventilating the United States Capitol extension; and, in order to render the proposed investigation entirely reliable, and to secure its accomplishment in accordance with the most recent developments of physical science, the aid of Professor Joseph Henry, of the Smithsonian Institution, was obtained, and, at his suggestion, Dr. Charles M. Wetherill, an eminent chemist, was employed to conduct the investigations. The report of Professor Henry, together with that of Dr. Wetherill, containing an elaborate record of the experiments and their results, are hereto appended.

It will be proper for me to preface these documents with a brief description of the apparatus by which the buildings in question are warmed and ventilated, and at the same time to furnish some statistics illustrating its power and efficiency.

The system adopted to accomplish these objects consists in drawing a given quantity

of pure external air into chambers formed for its reception by means of fans, where it is warmed by passing around and among stacks of pipes heated by steam-boilers, and forced into the halls of Congress, the adjacent rooms, and the passages and corridors throughout the building, through apertures in the floors and walls, thus producing what is called *a forced ventilation*. The column of air thus introduced displaces, of necessity, an equal quantity of vitiated air, which escapes through apertures in the ceiling and the numerous doors leading into the halls and galleries.

The fans employed to effect this object are four in number—one for each of the halls of Congress, and one for the committee-rooms and passages in each wing. These fans are moved by steam-engines of admirable construction and great beauty of finish.

The fan for the Senate chamber is 14 feet in diameter, and weighs 6,536 pounds; it is moved by an engine of about 16 horse-power, and delivers about 1,000 cubic feet of air at each revolution. It is capable of being run up to 60 revolutions per minute, which is the maximum velocity required for summer ventilation. At a rate of 30 revolutions per minute, which is the minimum speed required for winter, it delivers in the Senate chamber 30,000 cubic feet of pure air per minute, which is 20 cubic feet per minute for each individual, assuming the number of persons in the chamber to be 1,500. This is greatly in excess of what is actually necessary to preserve a healthful and agreeable atmosphere.

The hall of Representatives has a fan of 16 feet in diameter, weighing 9,050 pounds, and is moved by a steam-engine of 30 horse-power. This fan delivers about 1,250 cubic feet of air at each revolution, and admits of being run up to 80 revolutions per minute, thus delivering 100,000 cubic feet, or 3½ tons of air per minute. The hall is 139 feet in length, 93 feet in width, and 36 feet in height, which makes its contents equal to 465,372 cubic feet; hence, a volume of fresh air is forced into it every *five minutes* which more than equals its entire contents. This is for summer ventilation. Half this quantity of air is introduced per minute for winter ventilation, which, it should be observed, is warmed on its passage, thus applying, in cold weather, a quantity of warm air equal to the entire contents of the room every *ten minutes* during the sessions of Congress.

The committee-rooms, the clerks' rooms, the passages, and the corridors throughout both wings of the Capitol are warmed and ventilated in the same manner as the halls of Congress. Each wing has a separate fan for this purpose, of 14 feet in diameter, weighing above 5,000 pounds, and capable of delivering 50,000 cubic feet of air per minute, which is the maximum quantity required for summer ventilation. These fans are each driven by an engine of 16 horse-power, and are capable of being run up to 60 revolutions per minute.

The air to supply the fans is all drawn from the side of each wing next to the center building, at the level of the terraces west of the connecting corridors, through ducts, or areas, opening into the fan-rooms. These entrances for the admission of air to the building are therefore shut out from the streets on the north and south, thus avoiding the introduction of dust, and the terraces on which they are constructed are 60 feet above the Avenue. The purity of the air cannot, therefore, be doubted. It has been objected that the heat of these terraces in the summer materially affects the air, particularly in the north wing, but it has been proved by experiment that such is not the case to any appreciable extent. When it is considered that a mass of air equal to 50 feet square by 24 feet high, viz, 60,000 cubic feet, is drawn into the building, and forced into the Senate chamber every minute during the summer sessions, it is not to be supposed that any perceptible difference could result from the heated surfaces of the terraces. In order, however, to test this question, an inclosure of wood was raised around one of the apertures to the height of 30 feet, and the rate of the thermometer was found to differ very little from what it was before the inclosure was made. If the entrance of the air into these apertures, or areas, was not accelerated by the machinery inside of the building, and if its passage to the halls of Congress was simply dependent on gravitation, or the relative weights of air at different temperatures, as is the case where impelling machinery is not employed, the movement of the air would then be so sluggish as to render the heated terraces a very serious objection, and they might well be a cause of complaint; but in view of the facts of the case as before stated, it is obvious that the present arrangement for the ingress of the air into the air-chambers is all that could be desired.

After the air is drawn into the building and heated on its passage around the various stacks or pipes, or cooled by artificial showers in the main ducts, as the case may be, it is conveyed to the halls of Congress, and to all the rooms and passages throughout the building, by means of smaller ducts, composed of bricks laid in cement and well plastered. These ducts constitute a complete system of distribution, by which the admission of the air to every part of the building is regulated and equalized. The velocity of the draught which is constantly passing through these ducts renders anything like a collection of stagnant or unhealthy air a thing impossible.

The air is admitted into the rooms by perforated bronze registers, covered on the under side with wire gauze, and so arranged as to be under the control of the mem-

bers. These registers are so numerous, and so well distributed throughout the rooms, as to admit of the ingress of 100,000 cubic feet of air into the hall of Representatives, and 60,000 cubic feet into the Senate chamber, per minute, without producing unpleasant draughts, or interfering in the least degree with the acoustic properties of the rooms. For the winter-heating and ventilation of the Senate chamber 30,000 cubic feet of air are assumed as the usual quantity delivered per minute. The sum of the areas of the openings for the ingress of heat is 250 superficial feet; hence the inflowing air has a velocity of 120 feet per minute, or *two feet* per second, which is, however, reduced by diffusion immediately upon its escape into the rooms. I have heard no complaints from the members of either House of uncomfortable draughts since the apparatus has been perfected, nor have I been able, from my own observation, to discover any; it therefore seems to me that the manner of introducing the air for warming and ventilating the building is entirely unobjectionable. As to the quantity of air introduced, there can be no doubt that it is greatly in excess of the requirements of the halls, even when they are filled to their utmost capacity.

With these remarks, I submit the reports of Professor Henry and Dr. Wetherill, hoping that these documents may lead to a better understanding of the system of warming and ventilating the Capitol, as well as to a general diffusion of knowledge on this important subject.

I have the honor to remain, sir, with great respect, your obedient servant,

THO. U. WALTER,
Late Architect of United States Capitol Extension, &c.

Hon. JAMES HARLAN,
Secretary of the Interior.

REPORT ON THE WARMING AND VENTILATING OF THE UNITED STATES CAPITOL, BY PROFESSOR JOSEPH HENRY.

SMITHSONIAN INSTITUTION,
Washington, May 4, 1866.

DEAR SIR: In accordance with a request made by you, while in charge of the Capitol extension, to have the air of the Senate chamber and hall of Representatives subjected to a critical scientific examination, and to be furnished with any facts bearing upon the result of the present system of ventilation, I respectfully submit the following remarks, together with the report of Dr. Wetherill:

Understanding that your desire was to obtain independent testimony respecting the efficiency of the present system of ventilation of the Capitol in comparison with facts in regard to this subject obtained from experiences in this and in other countries, it was concluded to institute the following investigations:

1. To determine the chemical condition of the air from different parts of the halls after they have been occupied by the members of Congress and the usual audience.
2. To ascertain the temperature of different parts of the rooms at the time they are occupied.
3. To find the hygrometrical condition of the air of the halls in comparison with that of the external atmosphere of a similar temperature.
4. To trace any currents which might interfere with the ventilation or the comfort of the occupants of the halls.
5. To collect such facts from the bibliography of the subject as may be applicable to your inquiries or generally interesting to those who are practically engaged in the business of ventilation.

My own time was too fully occupied with official duties and other important engagements which had been devolved upon me by the Government, to permit me to give more attention to the subject than that of general discussion and occasional advice. The labor of the investigation was intrusted to Dr. Wetherill, who was in charge of the laboratory of the Smithsonian Institution, and who, in the accompanying report, has given an account of his own experiments and a statement of his conclusions, together with a synopsis of the results obtained by the principal investigators of the present day in this line of research. The whole forms, in my opinion, a valuable contribution to the important subject of ventilation, which I hope may be rendered generally available for the use of the public.

The part of the investigation to which I gave most attention was that which relates to the hygrometrical condition of the atmosphere of the halls.

Some observations which I had previously made in regard to this point in my own dwelling-house induced me to consider this as an important element of successful ventilation. The dwelling referred to was warmed by an ordinary furnace, in which the air was heated by contact with a cylinder of hot iron. The inmates frequently complained of headache and other unpleasant sensations. I could perceive no reason upon

established scientific principles for adopting the ordinarily received hypothesis of a deterioration of the air by contact with hot iron, other than the production of an extremely small quantity of carbonic acid from the floating particles of organic matter; but the burning of these would seem to render the air more pure by the destruction of any miasmatic effluvia which might be present. I was therefore led to suppose that the effects complained of might be principally due to a deficiency of moisture in the warm air; and upon subsequent investigation with the psychrometer, and the means of increasing the quantity of vapor, the truth of this hypothesis was, in my opinion, fully confirmed. Instead of producing a small quantity of vapor by exposing a surface of about three square feet of water to a temperature of from 90° to 100° in the air-chamber, as had been previously done, an abundant supply was furnished by means of an iron tube connected with the water-vessel and inserted through the side of the furnace into the midst of the burning fuel. The steam generated by this arrangement, which was suggested to me by my friend Dr. Torrey, of New York, gave sufficient vapor from the water, which it put in a state of rapid ebullition, to keep the dew-point at any required elevation. With a sufficient supply of moisture, the unpleasant sensations before mentioned were no longer experienced, the temperature was more equably distributed, and a quality of softness and salubrity imparted not before perceived. The increase of moisture prevented not only the undue evaporation of water from the lungs and all the external surface of the body, but also more readily absorbed the heat from the furnace and imparted it to the body, giving the feeling of great warmth with the same rapidity of combustion.

It is evident that the great object of warming and ventilating an apartment in the winter season is to supply it with pure air of the same degree of temperature and the same amount of moisture as that of an open space in a pleasant time in summer. To fully attain this object is a very difficult matter; but the system of warming and ventilation is certainly the best which approximates the nearest to this desirable condition. The heating of the air and preserving it at the desired temperature is the simplest part of the problem; to remove the impure air, and to supply its place with fresh air, without giving rise to unpleasant currents and unequal temperature, is more difficult; to supply the proper quantity of moisture, and to prevent its condensation, is attended with still greater difficulty, particularly when apartments containing a large number of persons are to be thoroughly ventilated. This part of the general problem is, in my opinion, an essential element of proper ventilation, although it has hitherto received comparatively but little attention in this country.

The idea is entertained by some that because the heating of a large volume of air to the required temperature of the room does not abstract the aqueous vapor which it contains, that hence evaporation from a surface of water is not required to render such air salubrious. It should, however, be recollected that when the external air is, say, at the temperature of zero, all of its aqueous vapor has been condensed, with the exception of an almost imperceptible quantity, and when this desiccated air is afterward heated to a temperature of seventy degrees its *capacity*, so to speak, for vapor, is so much increased that moisture exhales into it with great energy from all bodies from which it can be evaporated. A rapid current of ventilation of air in this condition constitutes an artificial sirocco. Dr. Wetherill's attention was, therefore, especially directed to this point, and on a first examination he reported that a constant jet of water, in the form of spray, was thrown into the chamber, which served as a reservoir into which the air was projected from the fans previous to its entrance in the halls; but this arrangement was afterward found to be merely intended to cool the air in summer, and not to supply it with moisture in the winter. For the latter purpose no arrangement was in operation, and consequently the air thrown into the chamber was in a condition of extreme dryness, and to this, and not to the impurity of the air, I would attribute, as a principal cause, the effects which have been complained of by members of both Houses of Congress.

It is conclusively shown, by the experiments of Dr. Wetherill, that the quantity of carbonic acid is not found in any part of the halls in injurious excess. It is true that in some cases, during cold weather, descending currents of air have been observed, due to the cooling of the ascending columns as they came in contact with the under surface of the roof, as was evident from the odor of gas when the burners above the ceiling were first lighted. That there is a tendency to form such descending currents is clear, since unless the air is immediately withdrawn from the space beneath the roof before it is cooled, and thus rendered heavier than the ascending air, it will descend in parallel streams; but to determine how frequent and extensive these currents are, further experiments will be necessary. The effects of them, however, were not perceptible in the analysis of the air by Dr. Wetherill.

On inquiry I found that the same deficiency exists in the necessary quantity of moisture in the air of the Treasury Department, and probably in all the other public buildings of the city. Mr. Rowland, an intelligent clerk of the Attorney General's Office, has partially supplied the deficiency in his room by means of a small gas furnace, which keeps a quantity of water in a constant state of rapid ebullition.

The admission of the proper quantity of moisture into an apartment, and also at the proper time, require careful attendance, since if the air be nearly saturated with vapor, previous to the warming of the walls to the statical degree of temperature at which they are to be retained, a precipitation will take place, and this is especially the case with the windows, although the glass be a bad conductor of heat, yet the panes are so thin that the temperature on the inside is always much lower in cold weather than that of the adjacent walls. This difficulty, however, does not exist in the halls of the Capitol, since they are not lighted by windows in contact with the external air, and it may be remedied in other buildings by double windows. It is true that the supply of the necessary amount of moisture will increase the cost of heating and ventilation, but this is a consideration which cannot, in most cases, be allowed to weigh against health and comfort.

Two methods are employed to supply air for ventilation, one of which is called that of impulsion, and the other aspiration. In the first method the air is forced into the chamber at a lower level, and allowed to escape at a higher. In the second method the air is removed from above by creating a partial vacuum, and supplied below by the pressure of the external atmosphere. I am informed that arrangements were made in the construction of the building by which both these methods could be employed at the same time, and the deficiencies of either thus obviated.

In conclusion, I may state that, as far as the inquiry has been carried, it shows that the means provided for the supply of warm and pure air to the halls of Congress are ample; that I fully agree in opinion with Dr. Wetherill that the principal cause of complaint is the deficiency in the supply of moisture; that in some cases descending currents of air may exist, but that both these causes of disquietude may be remedied without much expense or labor.

It should, however, be observed in this connection that it is impossible to supply the air of a public chamber in such a condition as to suit every individual of a large assembly of persons of different constitutions and bodily vigor. What is agreeable to one may be unpleasant to another. Besides this, however efficient may be the means of supplying air and of regulating the temperature and moisture, it is very difficult to retain it in such a condition as will be most agreeable to the larger number of the inmates of the chamber while the condition of the external air and the number of persons are continually varying.

I have the honor to remain, very truly, your obedient servant,

JOSEPH HENRY.

THOMAS U. WALTER, Esq.,
Late Architect United States Capitol Extension, &c.

REPORTS OF EXPERIMENTS UPON THE VENTILATION OF THE CAPITOL EXTENSION, BY CHARLES M. WETHERILL, PH. D., M. D.: WASHINGTON, D. C., 1865.

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Fig. 1.

Fig. 2.

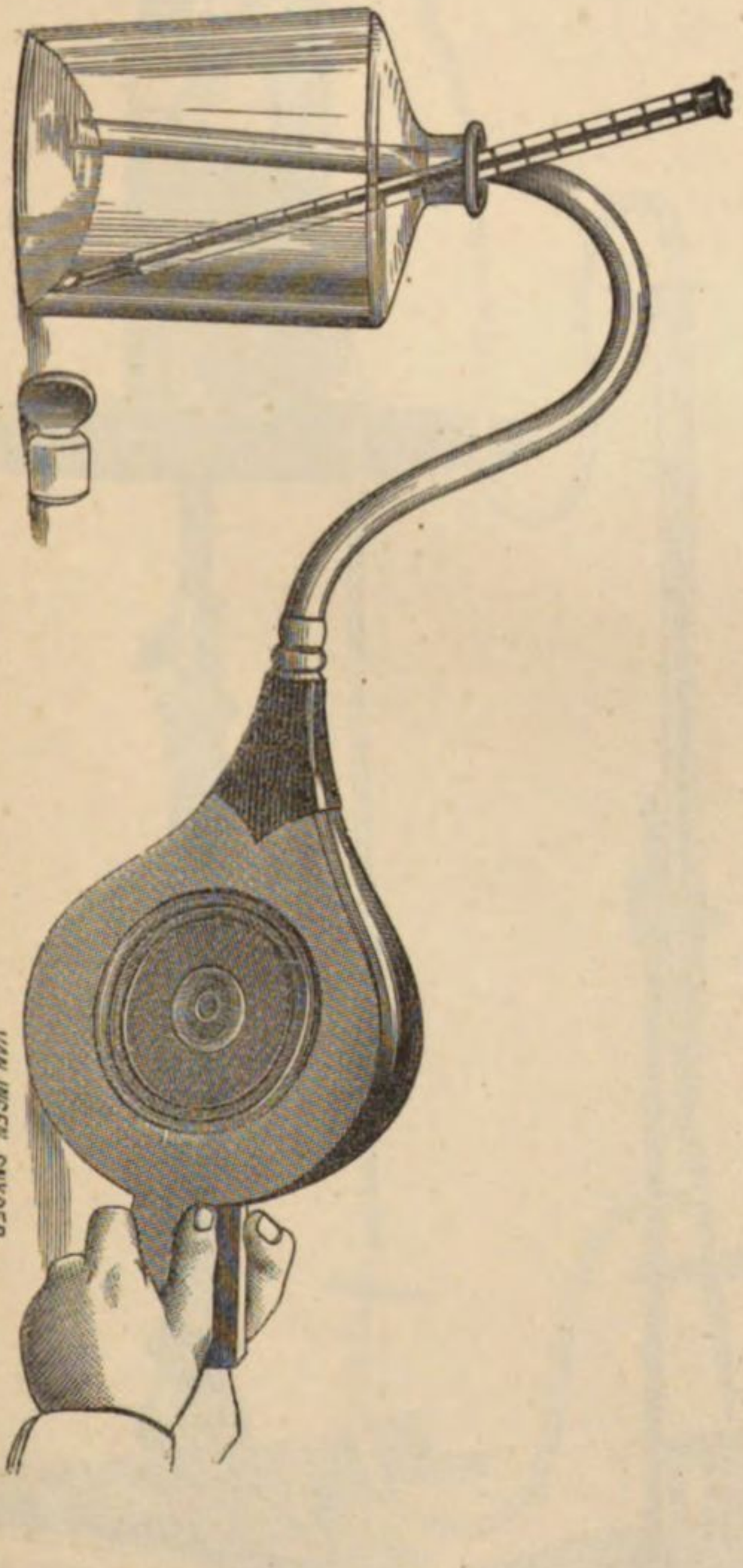
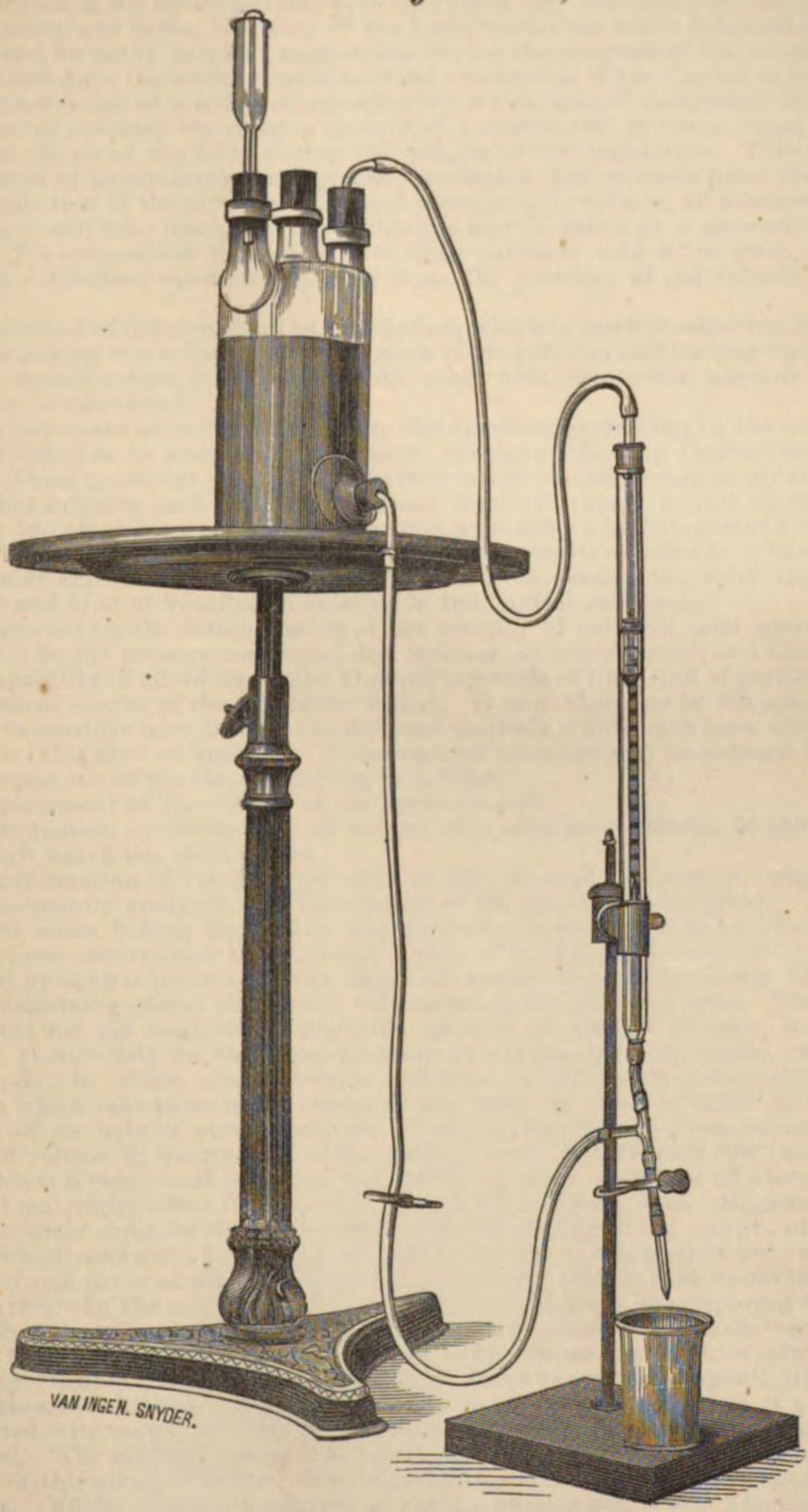


Fig. 3.



witz, (Liebig u. Kopp, Jahresbericht, ix, p. 308,) who investigated the accuracy of Brunner's apparatus, after making this same objection, found the results to be unsatisfactory and disagreeing with each other for the carbonic acid, because the sulphuric acid tubes employed for drying the air absorb carbonic acid; and in the use of chloride of calcium the tubes become light from its expulsion of chlorine by the ozone of the atmosphere. Méne, (Comptes-Rendus, xxxiii, pp. 39, 222,) who experienced difficulties in the employment of Brunner's method, determining the carbonic acid by the increased weight of a solution of caustic potassa, through which the air was drawn, assigned for cause the difficulty of drying the air perfectly before it reaches the potassa solution. He modified the process by determining the carbonic acid absorbed, by alkalimetry, thus: Having neutralized a solution of caustic potassa by an acid of known strength until it changed litmus, with which it was mixed, to a wine-red, he ascertained how much of the acid was needed to change the color to an onion-red. He thus obtained the quantity of carbonic acid originally existing in small proportion in the potassa solution. A measured quantity of the same potassa solution was then subjected to the air drawn through it by the aspirator, and after the addition of litmus, by determining the acid needed to change the color from a wine to an onion red, the necessary data were afforded for calculating the amount of carbonic acid in the air. Méne states that in his experiments for determining the relative amount of carbonic acid in the atmosphere, taken at different elevations on the Pantheon at Paris, he obtained by Brunner's method 5.1 volumes of this gas in 10,000 of air; while by his own method he found only 2.4 volumes. He then tested the solution of caustic potassa employed in the Brunner experiment by his own method, and found in it 2.5 volumes of carbonic acid, from which he inferred that the 2.6 additional volumes in the analysis by Brunner's method were due to an error which proceeded from water absorbed from the air, and which increased the weight of the potassa solution erroneously. Méne's results will be given in a subsequent part of this report. Otto (Lehrbuch der Chemie, vol. ii, part 1, p. 111) criticises them as unworthy of a high degree of confidence, and the individual experiments appear, indeed, to differ too much from each other; but they are worthy of note as affording a less amount of carbonic acid than is usually accepted as existing in the atmosphere.

There is an error of small extent which attaches to Brunner's method, and which, being in the opposite direction, tends to lessen that stated above. Apparently when large quantities of air are passed over caustic potassa a certain portion escapes absorption. C. W. Elliott and F. H. Storer, (Ch. News, iii, 178,) in their experiments upon the nature of the odorous gas accompanying the evolution of hydrogen from commercial zinc, passed atmospheric air through two long tubes filled with pumice-stone imbued with caustic potassa, and then through three Liebig's bulbs filled with the same alkaline solution, and found that when one hundred and fifty-six liters of air had passed by this route into lime-water, the latter was not, indeed, at once turbid in the Liebig bulbs, but after twenty-four hours a crystalline deposit of carbonate of lime was always formed. It doubtless existed immediately in an amorphous condition, soluble in the lime-water, and afterward separated by crystallization.*

These results may throw some light upon the discrepancies of Méne, who passed ninety-five liters of air per hour through his solutions of potassa, and hence lost some carbonic acid by his method, the loss being more than compensated by the atmospheric moisture communicated to the same solution in the Brunner experiment.

3. Upon the third principle involved in determinations of the atmospheric carbonic acid—viz, the transformation of this gas into a definite compound, which is subsequently analyzed—a large number of results have been obtained. The processes of De Saussure, Thenard, Mohr, Gilm, Pettenkoffer, and others, are founded upon this principle.

De Saussure, the younger, employed large air vessels, of known capacity, which were closed by a screw pressing upon a leather washer. In these he placed, with the air to be examined, at first lime-water, and in his later experiments solution of caustic baryta, which was spread upon the sides of the vessel twenty times daily during eight days. The carbonic acid of the air formed carbonate of baryta, which was filtered off and washed, with precautions against further absorption of carbonic acid from the air; the precipitate was then dissolved in hydrochloric acid. The carbonate adhering to the sides of the air-vessel was dissolved in acid and added to the former solution, from which the baryta was precipitated and weighed as sulphate. This gave the equivalent proportion of carbonic acid by calculation, which was referred to the air-vessel and estimated by volume in 10,000 parts of air. The De Saussure experiments were among the first performed upon the carbonic acid of the atmosphere; they were very numerous, agreeing well with each other, and are quoted and referred to universally at present as authoritative upon the constitution of the atmosphere respecting this constituent. Verver, who performed ninety analyses according to Brunner's method, obtained results

* Karsten (Pogg. Ann., cxv, 343) attributes this formation of carbonic acid to the oxidation of cork, caoutchouc, and organic matter by the air. It is a pity that neither of these operators measured the quantity of carbonic acid present.

identical, in maximum, minimum, and mean, with those of De Saussure. Notwithstanding this agreement, the proportion of carbonic acid is doubtless too large. We have seen the reason for this in Brunner's method to be owing to the absorption of water from the air, or to the difference between this gain and the loss of carbonic acid which passed through the alkaline liquid; or, finally, to these plus the carbonic acid arising from the oxidation of organic matter according to Karsten's experiments. The error of De Saussure's process, if any exist, is doubtless due to the absorption of carbonic acid from the air during the subsequent operations of filtering, &c., to which the carbonate of baryta is subjected.* When we consider the greediness of the baryta solution for carbonic acid, and the extremely small amount of this acid in the air, so that a small additional and erroneous weight for the carbonate of baryta would cause a large error in the composition of the air per 10,000, it is impossible to doubt that the results obtained by this process are too high. Besides, the air is confined for a long time with the alkaline solution, and all leaks of the air-vessel, imperceptible although they be, are so long in operation that they may produce a decided effect upon the increase of carbonic acid. De Saussure's method involves also a great deal of labor in its performance. Mohr, and subsequently Gilm, under the direction of Klasiwitz, have contrived a process which is described in Mohr's Titrir-Methode, p. 445. It combines certain principles of De Saussure's and Brunner's method, and applies the process of measuring according to the system of volumetric analysis, in place of weighing. Instead of confining the air in bottles, it is drawn, by means of an aspirator, through tubes containing hygrometric substances, by which it is dried. It passes thence through a long, slightly inclined tube filled with a mixture of caustic baryta and potassa in solution, and then into a small Woulfe's bottle containing the same alkali, to all of which it yields its carbonic acid, forming carbonate of baryta. This is separated by filtration and washing, with exclusion of air, and is converted into chloride of barium, of which the chlorine is determined volumetrically by Mohr's method, with silver solution. From the chlorine the proportion of carbonic acid is obtained by calculation. It is not necessary to indicate the sources of error to which this process is liable, as they will appear from what has already been stated above. A source of error which applies to all the methods in which the carbonate of baryta is separated by filtration and its baryta determined, arises from the absorption of baryta by the filtering paper. (Dr. Eisenstück, jr., Pr. Ch., lxxxiii, p. 384.) This method, like all in which an aspirator is employed, gives only the mean amount of carbonic acid in the air during the time (several hours) that the aspirator is in action.

Pettenkoffer's process, which has been adopted in this research, appears to combine more of the advantages, and fewer of the disadvantages, of those described above. It enables air to be collected at brief intervals of time; it is of facile execution, and its results agree closely with each other.

Prior to its description by Pettenkoffer, a similar method was proposed by Watson, whose results will be quoted in a subsequent portion of this report. Méne's former process is somewhat similar. This chemist published, subsequently, an improvement, substituting baryta for potassa, in which he appears to be unaware of Pettenkoffer's method of analysis. Pettenkoffer's process consists in introducing into a bottle capable of being closed accurately, and of capacity commensurate with the amount of carbonic acid supposed to be present, 45 cubic centimeters of a solution of caustic baryta containing about 9.3 grams of the crystallized hydrate in a liter of water. These air-bottles contain about 6 liters of air for analyses of the external atmosphere, and half that volume for the ordinary air of chambers. A solution of oxalic acid is prepared of such strength that one cubic centimeter of it will saturate as much of any base as one milligram of carbonic acid. For this purpose 2.8636 grams of crystallized oxalic acid are dissolved in a liter of water, since

$$\text{eq.}(C\,O_2)22 : \text{eq.}(C_2O_3\,3\,H\,O)\,63 :: 1 : x = 3.8636\dagger$$

With this oxalic solution the strength of the baryta solution is determined by seeking how many cubic centimeters of the former are required to neutralize 30 cubic centimeters of the latter to the point that a drop of the mixture will not produce a brown spot or ring upon tumeric paper. The air-bottles are turned frequently so as to coat their interior surface with the baryta solution. At the expiration of two hours the baryta will have deprived the air imprisoned in the bottle of its carbonic acid, forming the insoluble carbonate of baryta, and losing, to a proportionate degree, its alkalinity. Forty-five cubic centimeters of the barytic solution have been introduced into the bottle in order to be able to withdraw 30 cubic centimeters by means of a pipette, and to allow for loss of solution adhering to the air-vessel and for rinsing the pipette. When the process of absorption is completed, the barytic solution is poured gently into a beaker glass, and after rinsing a pipette with some of it, 30 cubic centimeters are withdrawn from the bottom of the beaker. These are neutralized by the requisite cubic centimetres of the oxalic solution, and the difference between this result and the former

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*Another source of error will be referred to presently.

†In Mohr's Titrir-Methode, by a typographical error, this quantity is stated at 2.409 oxalic acid.

operation upon the pure baryta is noted; to this number half of itself is added to account for the 15 cubic centimeters of the baryta solution left in the air-bottles, &c. The result is milligrams of carbonic acid, which are reduced to cubic centimeters of normal temperature and pressure, and the proportion of carbonic acid for 10,000 volumes of air is then calculated from the capacity of the air-vessel, (less 45 cubic centimeters, the volume of the barytic liquid introduced,) reduced to its normal pressure and temperature.

It will be perceived that this method resembles that of De Saussure, who employed baryta solution in air-vessels; but a much smaller amount of air is taken, which enables the analysis to be performed more rapidly. In addition to this it substitutes the delicate processes of volumetric analysis, and thus avoids the exposure of the alkaline solution to the carbonic acid of the air in filtering and washing the precipitate of carbonate of lime and the absorption of baryta by the paper. It avoids, also, the accumulation of errors of analysis incidental to the greater number of operations employed upon the said precipitate by De Saussure, Gilm, and others, to determine its equivalent in carbonic acid. It avoids the errors incident to the use of an aspirator, as in the processes of Brunner and others, and diminishes the time employed for collecting a given volume of air from several hours to as many minutes.

Pettenkoffer (Jr. Pr., ch. lxxxv, 178) has given the following comparison of his method of analysis with that of Dr. Gilm:

	By the process of—	
	Pettenkoffer.	Gilm.
I. Carbonic acid in 10,000 volumes of atmospheric air	7.40	7.41
II. Ditto	6.11	6.33
III. Ditto	4.52	4.09

The coincidence of results in I is too close to be other than accidental, for Pettenkoffer does not claim a greater accuracy in determining the point of neutralization in adding the oxalic to the barytic solution than $\frac{1}{10}$ of a cubic centimeter, which would give a possible error of nearly 0.1 in the number which represents the proportion of carbonic acid in 10,000 volumes of air. As two acts of neutralization are performed, this error may be either doubled or reduced to zero. If Pettenkoffer's results are correct, whatever errors attach to the use of an aspirator, or to filtration, as practiced by Gilm, apply to his own method, since by a comparison they afforded the same results. I have made some slight modifications of Pettenkoffer's process, which seem to be improvements, and which, together with the reasons for their adoption, will be found in a subsequent portion of this report.

Before proceeding to any determination of the proportion of carbonic acid in the air, an examination was made of the degree of accuracy of the method selected, and of the sources and amount of errors of the processes which have been adopted.

A discussion of this subject involves a consideration of the following points, viz:

1st, the accuracy of the weights and measures; 2d, the degree of accuracy in closing the air-vessels; 3d, the purity of the tests employed; 4th, the method of arriving at the point of saturation of the alkakine solution; 5th, the influence which the probable error in observing the aforesaid point of saturation has upon the analysis.

1. The weights and measures employed in the analysis were the gram (=15.44 grains) and the cubic centimeter, (=0.061 cubic inch.) In passing from the weight of carbonic acid obtained by the analysis to its volume, and in calculating its proportion in 10,000 volumes of air, it is important to have a correct cubic centimeter. This is obtained by the volume occupied by the weight of a correct gram of distilled water at an observed temperature, which volume is reduced to 4° centigrade, by means of the coefficient of expansion of water. The weights and graduated vessels obtained from the best instrument-makers are frequently incorrect, and hence a particular examination of such as were used in these experiments became necessary. The result demonstrated the existence of inaccuracies, which were corrected. A portion of this work was performed in the Bureau of Weights and Measures, and I am much indebted to Joseph Saxton, esq., for his valuable coöperation in graduating the air-vessels with the delicate standard balances of this Bureau. The Bureau of Weights and Measures is the depository of a complete set of standard weights and measures which were presented by the government of France to the United States. These have been compared with the platinum kilogram in the archives of the department of state of France, by M. Silberman, superintendent of the Conservatory of Arts and Trades, whose report upon the subject is contained in the report to the Senate of Professor Bache, Superintendent of Weights and Measures, (Ex. Doc. No. 27, 34th Congress, 3d session, p. 138.) The weights used for the analysis were box No. 798, of Oertling's manufacture. The small weights of the subdivisions of 50 grams were found to be exactly equal to the 50-gram weight, which is itself equal to 50.0009 grams, according to the standard in the archives of the French state department. The air-vessels were graduated by Mr. Saxton and myself, employing distilled water and the large French weights of page 160 of Professor Bache's report. Their volume was calculated for 4° centigrade, and account was taken of the air escaping from the bottles before the second weighing.

All of the other measures—the burettes, pipettes, &c.—were graduated by box No. 798 of Oertling's weights; and the temperature of the water was taken at 17½° centigrade for the standard, according to Mohr's practice in volumetric analysis. Since 45 cubic centimeters of solution of baryta are poured into the air-vessels, this volume must be deducted from the capacities of these vessels, respectively, to ascertain the amount of air taken for the analysis. But a liter, according to Mohr's graduation, measures really 1,001.2 cubic centimeters; hence, 45 cubic centimeters, according to his measurement, would equal 45.05 cubic centimeters, and hence I have deducted 45.01 cubic centimeters from the air-vessels to obtain the quantity of air taken for the analysis. The following table contains this quantity for the bottles, together with their logarithms employed in the calculations:

Table of quantity of air taken for analysis.

Designation of bottle.	Cubic centimetres, less 45.1.	Logarithms C. C. of air.
A	7916.6	3.89854
B	7470.1	3.87333
C	7652.5	3.88380
a	3556.7	3.55105
b	3005.2	3.47787
c	3031.2	3.48161
d	3255.8	3.51266
e	3315.7	3.52058
f	3171.1	3.50121
g	3064.7	3.48639

The full pipettes (Fig. 1) employed in the analysis were graduated by the weight of distilled water at 17°.5 centigrade, which dropped from them; and the error of the burettes was determined by weighing the successive volumes of ten cubic centimeters (read by means of Erdmann's swimmer) which they discharged. The liter measures were also tested and corrected.

2. The vessels (Figs. 1 and 3) for confining the air in contact with the solution of baryta, were closed with accurately-ground glass stoppers. It was deemed important to determine the degree of tightness of these stoppers, so that the air might remain sufficiently long exposed to the action of the baryta without danger of the absorption of carbonic acid from the external air by diffusion. To effect this purpose the stoppers were reground carefully with flour of emery, coated with a film of glycerine and inserted in the bottles, which were then inverted in a vessel of water and placed in a vacuum; by which experiment it was ascertained that the stoppers were perfectly air-tight. This fact was also proved by the following experiment: Three specimens of the same external air were taken and solution of baryta added; of these, B and C were analyzed at the expiration of 3 hours, and A at the expiration of 22 hours, with the following results:

B contained ..... 2.685 volumes of carbonic acid,
C contained ..... 2.719 volumes of carbonic acid,
A contained ..... 2.722 volumes of carbonic acid,

in 10,000 volumes of air. Hence the absorption of carbonic acid was complete at the expiration of three hours, and the delay of a day in performing the analysis did not involve any error arising from the diffusion of carbonic acid external to the apparatus. In consequence of this result, and to insure perfect absorption of the carbonic acid, the specimens of air were always analyzed on the day after they had been collected. The analysis of duplicate or triplicate specimens of external air always agreed closely, and when the bottles containing them were opened in the warm laboratory the expanded air always rushed out with a noise.

In the method described by Pettenkoffer, the baryta solution remaining in the air vessels after the action thereupon of carbonic acid, *is poured out* into a small beaker glass, and after the 30 cubic centimeter pipette has been washed out with a small portion of this solution, it is filled with sufficient of the remainder for the determination of its alkalinity. It would seem that, by such a procedure, there is danger of an increase of carbonic acid by exposure to the air. When the pipette is not protected, the inside of the stem becomes quickly coated with carbonate of baryta, and the act of pouring the baryta must necessarily subject the same to carbonic acid. I sought, therefore, to improve the process by employing a 30 c. c. pipette of sufficient length to reach to the bottom of the liquid in the carefully-opened air bottle (as shown in Fig. 1) from which, after rinsing the pipette, the baryta solution is immediately drawn. In

Pettenkoffer's early experiments the baryta solution was neutralized in the air vessel. The upper stem of the pipette I protected from carbonic acid in the air by a small tube containing a mixture of caustic lime and Glauber's salt. A similar protection extends to the air entering the bottle containing the supply of baryta solution needed for adding to the air vessels. The 45 c. c. pipette is filled from this bottle by means of a glass tube reaching to its bottom and furnished at the top of the tube with a piece of gum-tubing, closed with Mohr's spring clamp. (Fig. 2 illustrates this method of confining and pipetting the baryta solution.) Experiment demonstrated, by daily determinations of its title, that baryta test solution thus preserved maintained its strength unimpaired.

In collecting air for analysis the stoppers were always inserted carefully to avoid compressing the air. The air was introduced into the air vessels by the action of a bellows with an India-rubber tube reaching to the bottom of the bottle, as illustrated by Fig. 3.

3. It is plain that, other things being equal, the accuracy of the results depends upon the purity of the oxalic acid employed. In the described method, this acid, purified by crystallization from oxalate of potassa, is dried in vacuo over sulphuric acid, at the ordinary temperature. If these crystals contain mother-water in their pores or cavities they will have the composition $C_2\ O_3\ 3\ HO + x\ HO$, and will give the result of too much carbonic acid in the air; if the exposure in vacuo at the ordinary temperature of the laboratory is prolonged there is danger of their losing some of the water of crystallization, and thereby yielding too little carbonic acid. The experience of this research has demonstrated the necessity of ascertaining the strength or title of the oxalic acid by a special volumetric analysis, by means of pure carbonate of soda. In this process the oxalic solution was prepared with 2.8636 grammes to a liter of water, as if the acid were pure, and then, by a neutralization with pure carbonate of soda, a factor was obtained by which to multiply the measures of oxalic solution to correct the errors arising from the impurity of the acid. A small quantity of oxalic acid, prepared for the experiments of the summer of 1863, was thus found to be impure from excess of water. A pound of the acid, purchased from Luhme & Co., supposed to be chemically pure, was found to contain binoxalate of potassa, from which it could not be freed by less than four crystallizations, according to Mohr's process. An exposure to sulphuric acid in vacuo was prolonged until it was feared that the crystals had effloresced. The microscope, however, demonstrated that such was not the case; but, upon determining the title by carbonate of soda, the presence of a larger quantity of water than the formula $C_2\ H_3\ 3\ HO$ warranted was ascertained. It resulted from the experiments that this oxalic acid always gave a solution of the same strength, although below the normal one. Its volumetric analysis by the carbonate of soda was effected in the following manner:

A quantity of bicarbonate of soda, purchased for chemically pure, but which contained, by analysis, iron, chloride, and sulphate, was purified and converted into neutral carbonate in the usual manner. Analysis then demonstrated that 2.812 grammes of the salt contained 2.807 pure carbonate and 0.005 sulphate of soda. A solution of this salt was made of such strength that a cubic centimeter would exactly neutralize the same measure of Pettenkoffer's oxalic solution made with pure acid. This requires the oxalic acid and carbonate of soda to be present in the proportion of their equivalents, viz:

63 (eq. oxalic acid) : 53.18 (eq. carb. soda) : : 2.8636 : $x = 2.4172$; but since 2.807 of pure carbonate of soda is contained in 2.812 of the carbonate of soda employed, instead of 2.4172 we must take 2.4215 of this salt, and dissolving it in a liter, we will have a solution which would exactly neutralize a liter of normal oxalic acid solution.

A little more than this quantity of carbonate of soda was ignited in a platinum crucible, and weighed after cooling over sulphuric acid; it was then brought to the exact weight required, then heated again and weighed repeatedly until it was certain that no hygrometric water impaired the correct weight. The salt was then dissolved in an accurate liter of distilled water of 17°.5 centigrade.

Thirty c. c. of this solution were measured at 17°.5 C. into a beaker glass, to which ten drops of the litmus solution, employed in these experiments, were added. This litmus solution was neutralized by nitric acid until it was of wine-red color; forty drops required 0.495 c. c. of the oxalic acid solution to produce an onion-red tinge; consequently ten drops of the litmus would require 0.124 of the acid for the production of this shade of color. By the mean of four experiments it was ascertained that 30 c. c. of the above-mentioned carb. soda solution required 31.323 c. c. of oxalic solution in the corrected burette to produce an onion-red color after boiling. This volume corrected for the alkalinity of the ten drops of litmus is equal to 31.199 c. c., and x $(31.199) = 30$ or $x = \frac{30}{31.199} = 0.96157$, of which the logarithm equals $\overline{1}.9829806$. This experiment was repeated with the same result upon another preparation of oxalic acid solution, and consequently the volumes of this acid obtained in the course of the analyses, from which the amount of carbonic acid was determined, were always corrected by multiplication by the number 0.96157.

4. For determining the point of neutralization by adding the oxalic to the baryta

solution, Péttenkoffer adopted the reaction upon turmeric paper. He states that in employing litmus solution for this purpose he found an uncertainty in determining the point of neutralization, extending from 4½ to 5 cubic centimeters of the oxalic acid solution. In consequence of this he let fall a drop of the solution, at intervals during the progress of saturation, upon a piece of turmeric paper, and arrested the process when a brown ring was no longer visible. As the employment of litmus would facilitate the research, experiments were instituted to ascertain whether it could be used. They resulted satisfactorily, and the following is the improved method adopted. To the baryta solution ten drops of a strong and nearly neutral solution of litmus were added. It is not necessary to take into account either the alkalinity of this litmus or the slight error of the burette, since the carbonic acid is determined by the difference of two reactions which are precisely alike, with the exception of the presence of a precipitate of carbonate of baryta in the second reaction. These two cases neutralize also the error which might arise from an absorption of carbonic acid from the air in pipetting the baryta solution.* The oxalic solution is added until a point is reached when the blue color of the liquid changes suddenly to violet. The beaker containing the solution is then slightly warmed, which expels carbonic acid, and causes the complete subsidence of the precipitate of oxalate of baryta. A microscopic examination demonstrated that this precipitate is as soon as formed, and without the application of heat, crystalline. It now requires a small amount of the oxalic solution to bring the liquid to the desired shade of red at which the operation is arrested. This shade is incipient onion-red. To produce it drop after drop of the oxalic acid is suffered to fall into the almost clear liquid, until the falling drop is no longer visible. The precipitated mixture of carbonate and oxalate of baryta is tinged *blue* by the absorption of the coloring matter of the litmus when the point of neutralization has been reached. If after the neutralization is complete the drops of oxalic acid reach this blue precipitate while suspended in the liquid, the color will be changed to red; but if they fall into the clear liquid, and become thus diluted before mingling with the precipitate at the bottom of the beaker, they will produce no effect upon its color. If the glass containing the liquid be suffered to stand for some time after the completion of the experiment, the precipitate is changed slowly from a blue to a red color. Perhaps it would be of advantage to arrest the operation of adding the oxalic solution at the appearance of the violet color; but the point of the onion-red having been adopted at first, was maintained for all of the experiments. This point has the advantage that the operator is prepared by the advent of the violet tinge to add the oxalic test with caution. None of the experiments were lost by excessive addition of the test acid. There is nothing to prevent the use of turmeric paper, together with the litmus, in its two stages of violet and red tinge, taking the mean result of the three indications; or, if losing the point of neutralization by the turmeric paper, saving the analysis by means of the litmus reaction. In the series of experiments performed in June, 1864, turmeric paper was employed, and the experience derived from the present series has demonstrated the equal delicacy as well as the superior convenience of the litmus solution in analyses of this character. The following experiments, showing the number of cubic centimeters of oxalic solution required to neutralize thirty c. c. of the solution of baryta, arresting the operation at the points indicated above, prove the accuracy of the method adopted:

Number of experiment.	Turmeric brown.	Violet tinge.	Onion-red.
1	Lost.	37.0	37.2
2	36.2	37.0	37.2
3	36.0	36.9	37.2
4	36.2	36.9	37.2

The differences between the turmeric brown and violet tinge are, respectively, 0.8, 0.9, and 0.7. Between the onion-red and violet the differences are 0.2, 0.2, 0.3, 0.3; between the turmeric brown and onion-red they are 1.0, 1.2, and 1.0.

I observed that the point of neutralization could be determined more closely with the baryta solution before than after its exposure to the carbonic acid of the air in the vessels. I have been unable to ascertain, with any degree of certainty, the cause of this, which might arise from a solvent action of the acid upon the carbonate of baryta; but in order to diminish possible errors from this source, I have always arrested the neutralization in the second case very closely to the onion-red tinge, although not quite at this point. If there be any error in such a procedure it would tend to yield a trace more of carbonic acid than is really present.†

*Since the hydrate of baryta employed in preparing the test solution contained carbonate, the filtered test solution is saturated with the said carbonate. *Vide* De Saussure's experiments.

†This would not affect the object of the present report, since the determination of carbonic acid in apartments was always relative to a simultaneous analysis of the external atmosphere.

5. From the foregoing considerations it is apparent that the degree of accuracy of the method depends upon the correctness with which the *point of neutralization* is observed. Experience in graduating the full pipettes employed in measuring the baryta solution proves that they always indicate very nearly the same amount of liquid. The burette furnished with Erdmann's swimmer, and graduated to 0.2 cubic centimeter, may be read very accurately to 0.1 cubic centimeter, or even less. Suppose that a mistake of $\frac{1}{10}$ cubic centimeter be made in determining the point of saturation of the baryta solution. Since considerable uniformity exists in the capacities of the air vessels as well as in the amounts of carbonic acid resulting from the analyses, we may calculate the probable errors of the analyses as follows: In experiment No. 3, of February 8, 1865, by which 2.719 carbonic acid was found in 10,000 volumes of air, an error of —0.1 cubic centimeter of oxalic solution in the neutralization would give 2.622 carbonic acid, or an error of —0.097. One-tenth of one part in ten thousand, or one one-hundred-thousandth, would therefore be the probable error in the determination of the carbonic acid when operating carefully. In nearly every instance duplicate analyses of the air were performed, and the average of the results was taken. It has been deemed expedient to present in this report all of the data afforded by the experiments, together with the method of calculating them, so that, in the event of future improvement of this method of analysis, a recalculation of the results (if needed) may be effected. The calculations were performed by logarithms, and, to avoid errors, were repeated twice, and in some instances three times. In reducing the volume of the air taken for each analysis to 0° centigrade and 760 milimeters barometric pressure in the usual manner, the logarithms for $(1 + \delta\, t)$ and $\frac{B}{760}$, in which B = the barometric pressure reduced to 0° C., t the temperature of the air in air-vessels, and $\delta = 0.003665$, were taken from Marchand's tables. These logarithms were added when B was below 760^{mm}., but when B was above 760 its logarithm was subtracted from the logarithm $1 + \delta\, t$, and the sum or difference thus obtained was subtracted from the logarithm of the air-vessel (see page 14 of this report) to reduce the quantity of air taken to its normal temperature and pressure. The milligrammes of carbonic acid afforded by the analyses were corrected for the abnormal condition of the oxalic acid test by adding to their logarithms $\overline{1}.9829806$. which is the logarithm of the factor 0.96157. The further addition of the logarithm $\overline{1}.7015680$ translated the weights into cubic centimeters of carbonic acid (sp. gr. carbonic acid = 1.5291) of normal pressure and temperature; and the addition of 4 to the characteristic of this logarithm gave the calculation for 10,000 volumes of air. These operations were abridged by adding the constant logarithm 3.6845486 to the logarithm of milligrammes of carbonic acid proceeding from the experiment, and subtracting therefrom the logarithm of the air taken at normal temperature and pressure. The number corresponding to this logarithm gives the volume of carbonic acid in 10,000 measures of air.

The following example of the calculation of analysis No. 46 will sufficiently illustrate the method of computation:

In this experiment the air-vessel A (log. 3.89854) was filled with air of temp. 4° C., at a barometric pressure reduced to 0° C. of 759^{mm}. Forty-five cub. cent. of baryta solution, of such strength that 30 c. c. required 37.5 c. c. of oxalic acid for neutralization, were introduced into the air-vessel, and the stopper, coated with glycerine, was inserted. On the following day 30 c. c. of the baryta solution were removed from the air-vessel; they required 34.6 c. c. of oxalic solution for neutralization; then—

Log. $(1+\delta 4°)$	= 0.00632	Log. A	= 3.89854
Add log. $\frac{759}{760}$	— 0.00057		0.00689
	0.00689		3.89165 log normal vol. air.

Cub. cent.

37.5 title of 30 cub. cent. baryta solution before exposure to carbonic acid.
34.6 title of 30 cub. cent. baryta solution after absorption of carbonic acid.

2.9
+ ½ 1.45 to account for the 15 c. c. baryta solution left in the air-vessel.

4.35 log = 0.6384893

Add 3.6845486

4.3230379
Subtract 3.89165

0.43139 = 2.7 carb. ac. in 10,000 vols. air.

Fig. 4 represents the method of neutralizing the solution of baryta before and after it has been acted upon by the carbonic acid of the air confined in the air vessels. The three-necked bottle contains the normal solution of oxalic acid, which, by pressing the spring clamp attached to the caoutchouc hose connected with the bottle, rises in the Mohr's burette, where it is measured very accurately by means of the Erdmann swimmer. Upon pressing the clamp at the extremity of the burette, the test acid is dropped and measured into the beaker glass containing the baryta solution tinged with litmus. While filling the burette its air passes into the three-necked bottle by means of the hose connected with the top of the burette, and in measuring off the acid, air enters the Woulfe bottle by a water-valve sealed by some of the oxalic solution. By this arrangement a very rapid and accurate neutralization is effected.

EXPERIMENTS UPON THE MOISTURE IN THE AIR.

Cotemporaneously with the carbonic acid determinations, and in some instances without them, the amount of moisture present in the air was ascertained by the difference in temperature of correct dry and wet bulb thermometers. This method by psychrometry was preferred to the more accurate one of Regnault for determining the dew-point, as being sufficiently accurate for the purpose while it enabled a comparison to be made with the results of the meteorological observations of the Smithsonian Institution and of others throughout the country, and at the same time was of very ready execution. The thermometers were all carefully compared before employing them in the experiments. Three pairs were used in the course of the investigation. In experiments 1 to 34 I employed a pair of fine centigrade thermometers belonging to the Smithsonian Institution, and capable of estimating quarters of a degree.

In experiments 34 to 83 I used a pair of centigrade thermometers of German construction, graduated to fifths of a degree, and estimating tenths with perfect accuracy. The instruments placed side by side in iced water stood at 0°, and were found to be equivalent, degree by degree, beyond the highest temperature observed during the research. Placed side by side in the air, and observed for different temperatures during several days, they stood always alike.

Unfortunately one of these thermometers was broken, and reliance was had for the remainder of the observations upon a Mason's hygrometer containing Fahrenheit thermometers. This instrument was compared with the unbroken thermometer used in experiments 34 to 83, and was found to agree with it. It had the disadvantage of rendering fifths of a degree by estimation with difficulty. The results by this hygrometer were translated into centigrade degrees, and all of the calculations for humidity were performed by the use of Guyot's tables. (Smithsonian Misc. Coll.)

A table comprehending the data and results of the determinations of carbonic acid and humidity will be found upon a subsequent page of this report, which position was assigned to it so that we might first consider the observations of other chemists and physicists upon ventilation, after which a comparison and discussion of the results obtained by the present research would follow most naturally.

I. CONSTITUTION OF THE ATMOSPHERE.

I. INTRODUCTION.

In consulting the numerous works upon ventilation placed at my disposal by the Smithsonian Institution, I have been surprised at the sameness of many of them, each author copying much of the matter of his predecessors and adding little new. I have thought, therefore, that it would be interesting to refer to the original investigations and analyses of those who have determined the constituents of the atmosphere, or, where that was impossible, to other publications containing full accounts of such experiments. This an extensive search in the library of the Smithsonian Institution and in my own library has enabled me to do; but a difficulty presents itself in condensing the numerous references within the narrow limits of a report.

The atmosphere plays the main part in ventilation; hence the importance of ascertaining the nature and proportion of its constituents in both normal and abnormal conditions.

What Humboldt says of climate applies to the interior of an apartment occupied by an assemblage of individuals. (Humboldt Fragmens de Climatologie et de Géologie Asiatiques, Paris, 1831:) "The word climate, in its most general acceptation, embraces all the modifications of the atmosphere by which our organs are affected in a sensible manner; such as temperature, humidity, the variations of barometric pressure, the tranquillity of the air, or the effects of the different winds, the electrical charge or tension, the purity of the atmosphere or its admixture with gaseous emanations more or less insalubrious; finally, the degree of habitual clearness, that serenity of sky so im-

portant through the influence which it exerts not only by the irradiation of the soil upon the development of the organic vegetable tissue, and the ripening of fruits, but also by the moral effects which man experiences in the diverse zones."

Notwithstanding the rapid progress of science, we are far from being able to assign its due effect upon the human system of any of the above-mentionted conditions, and we can certainly not produce in the air of an inclosed, occupied space the salubrious conditions of the external atmosphere. It is the object of a well-ordered ventilation to advance in this direction as far as possible with our present limited knowledge.

It was only towards the close of the last century that the nature of the principal atmospheric constituents began to be understood. In 1774 Priestly and Scheele discovered oxygen in the air, and described the properties of this gas, at the same time discovering another constituent of the air, to which, later, the name nitrogen was given. In the same year Bergman detected carbonic acid in the atmosphere, a gas already known to Von Helmont, but which Lavoisier, in 1776, ascertained to be a combination of carbon with oxygen. Scheele observed also the presence of ammonia in the air.

The true nature of water, one of the most important of the aerial constituents, was unknown until Lavoisier determined it in 1783. At that time it was generally believed that water was an elementary body and could be converted into atmospheric air, and conversely, until De Luc (Idées sur la Météorologie) refuted the error by an extended argument. (Meteorologie von E. E. Schmid, p. 14, Karsten Allgemeine Encyklopædie der Physick.) The accurate nature and the quantity present of these constituents was not determined until the present century, and their study is still prosecuted; while ozone and the presence of organic germs and other solid matters, with effluvia, and the nature and effects of respiration, are discoveries of our own day.

The following chronological review of the experiments upon the atmospheric oxygen and carbonic acid, quoted from Schmid, in Karsten's Encyklopædie der Physick, are interesting, showing the progress of the science:

Chronological view of eudiometric experiments.

1774.—Scheele: "The air must consist of two kinds of electric fluids."—Chemical Treatise on Air and Fire, Leipzig, 1777, § 8–23. "Atmospheric air contains, as it appears, a fourth part of purest or dephlogisticated air, about $\frac{3}{4}$ or $\frac{11}{16}$ of phlogisticated air, and about $\frac{1}{16}$ of fixed air."—Id. 5, 216.

1775.—Fontana: Discritzioni ed usi di alcuni stromenti per misurare la salubrita. dell'aria—Firenze, 1775.

Landriani: Ricerche fisiche intorno alla salubrita dell'aria, 1775.

The inferences from these researches, owing to the errors of the nitric oxide eudiometer, were that the amount of oxygen in the air was variable, and was the cause of its healthfulness, on the contrary. Compare Kopp Geschichte der Chemie Bd. 3, S. 209, Braunschweig, 1845.

1778.—H. B. De Saussure performs eudiometric experiments in the southwestern Alps. He employed the nitric oxide eudiometer, and arrived at the incorrect result that the proportion of oxygen is less on the heights than in the valleys.—Voyages dans les Alps, Neufchatel, 1787–1796, § 578, 1,113, &c.

1790.—De Marty is led, by experiments in Catalonia with sulphide of calcium, to assert that the proportion of oxygen in the atmosphere is constant.—Gilb. Ann. 19, 389.

1799.—Berthollet recommends the phosphorus eudiometer, and makes observations with it at Cairo.—Memoires sur l'Egypte publées pendant les campagnes du Géneral Bonaparte. Paris, An. 8, pp. 284—294. In Gilb. Ann. 5, 341.

1800.—Davy's experiments in England confirm the results of De Marty.—Jour. Royal Inst., 1801, p. 45.

1802.—Berger: Experiments in the Savoyard Alps and in the Jura. Comparison of the results of the phosphorus sulphide of potassium and nitric oxide eudiometer.—Journal de Physique, I, 54, p. 366, and Gilb. Ann. 19, 412.

1804.—Dalton finds the air on the peak of Helvelyn, in Cumberland, at an elevation of 1,100 yards, and that in Manchester of the same composition.—Gilb. Ann. 27, 387.

1805.—Gay Lussac, and Von Humboldt: Examination of eudiometric methods. Recommendation of Volta's eudiometer. Experiments in Paris upon the atmosphere at different seasons and in different weather.—Jour. de Phys. I, 60, p. 129. In Ann. 20, 38. "Atmospheric air contains 21 p. c. oxygen gas, by volume, without variation."—Gilb. Ann. 20, 92.

1809.—Configliachi: Experiments upon the southern Alps and Appenines, upon wet meadows and in rice fields, and in apartments filled with persons, yield almost exactly the same proportion of oxygen.—Sull' anâlisi dell' aria contenuta nella vesica natatori dei pesci. Pavia, 1809; also Schweigger, Neues Jour. für Ch. und Phys. Nurnberg, I, 144.

1832.—Brunner: Perfection of the method of determining both constituents of the atmosphere.—Pogg. Ann. 27, 1.

1834.—Brunner: Experiments upon the Faulhorn.—Pogg. Ann. 31, 1.

1840.—Boussingault: Experiments in South America.—Ann. de Ch. et de Phys. Ser. 2 76, 360.

1841.—Boussingault and Dumas: Perfection of the improved methods by their performance upon a large scale.—Ann. de Ch. et de Phys. Ser. 3; 3,257. Abstract in Pogg. Ann. 53, 391.

Bouissingault and Dumas, Brunner, Martins and Bravais: Cotemporaneous observations at Paris, (Jardin des Plantes,) Bern, and at the hospice upon the Faulhorn.—Ann. de Ch. et de Phys. Ser. 3; 3, 301.

1842.—Marignac: Experiments at Geneva.—Comptes. Rend., xiv, 379.

Stas: Experiments at Brussels.—C. R. xiv, 570.

1843.—Lewy: Experiments on the North Sea and in the Danish islands.—Ann. de Ch. et de Phys. Ser. 3; 8, 425.

1849.—Regnault and Reiset: Accurate experiments by the aid of the Volta eudiometer.—Ditto, vol. 26, p. 341.

1852.—Lewy: Experiments upon the Atlantic Ocean and in South America.—Ditto, vol. 34, p. 1.

Chronological view of carbonic acid experiments.

1774.—Bergman: Discovery of carbonic acid in the atmosphere.—See Kopp, Geschichte der Ch. 3, 283.

1787.—H. B. De Saussure: Its detection in the air of the Col du Géant and of Mont Blanc.—Voyage dans les Alps, § 2,010, 2,077.

1791.—Von Humboldt: Experiments upon the atmosphere.—Brunswick, also, reports in Gilb. Ann. 3, pp. 77–90.

1801.—Fourcroy: Système des connaissances chimiques.—Paris, vol. 1, p. 158. Approximate results.

1813–'18.—Thenard: Traité de chimie élémentaire théorique et practique.—Paris, vol. I, p. ed. 5, p. 303. Quantitative method of determining carbonic acid.

1816.—Th. De Saussure: Bibliothéque universelle, T. I. In Gilb. Ann., 54, 217. Comparison between summer and winter.

1820.—A. Vogel on the small quantity of carbonic acid contained in the air over the surface of the Baltic. Gilb. Ann. 66, 93.

1822.—A. Vogel, Gilb. Ann. 72, 277. The same in the atmosphere over the surface of the channel.

1828.—Th. De Saussure: Ann. de Ch. et de Phys., 38, 411, and Pogg. Ann., 14, 390.

1830.—Th. De Saussure: Id. 44, 5, and Pogg. Ann. 19, 391.

1832.—Brunner: Pogg. Ann., 24, 305, new anthrakometer.

1834.—Watson: Rep. 4th meeting of the British Association, p. 583.

1835.—Bousingault: Recherches sur la composition de l'atmosphère, 2me Mémoire, Compt. Rendus, T. 1, p. 36.

1843.—Lewy: Recherches sur la composition de l'atmosphère, mémoire lu à l'Académie des Sciences, le 7 Âout, 1843.

1843.—Boussingault: Recherches sur la quantité de l'acide carbonique contenue dans l'air de la ville de Paris: Ann. de Ch. et de Physique. Sér. 3; 10, 456.

1844.—Boussingault et Lewy: Observations simultanées faites à Paris et à Andilly, prês Montmorency, pour rechercher la proportion d'acide carbonique contenue dans l'air atmosphérique. Ann. de Chim. et de Phys. Ser. 3; 10, 470.

1849.—H. & A. Schlagintweit: Investigation upon the carbonic acid in the atmosphere of the eastern Alps. Pogg. Ann., 76, 442.

1852.—A. Schlagintweit: Upon the quantity of carbonic acid in the upper regions of the atmosphere. Experiments in the western Alps. Pogg. Ann., 87, 293.

1852.—Lewy: Recherches sur la constitution de l'atmosphère. Ann. de Ch. et de Phys. Ser. 3; 34, 1.

An examination of this chronological view demonstrates that it is only in modern times that we begin to have a correct knowledge of the principal constituents of the atmosphere. The most important of the results of the above authors will be given in the pages of this report, and the literature of the subject will be extended to the present time, in which the chemical investigation of the atmosphere is confined to its ozone, minute solid bodies, and mismata contained therein, ammonia, &c.

Constitution of the atmosphere; its carbonic acid, oxygen, and nitrogen.

The atmosphere, when deprived of its carbonic acid and aqueous vapor, contains:

	By weight, per cent.	By volume, per cent.
Oxygen	23	21.00
Nitrogen	77	99.00
	100	100.00

In its natural condition, 10,000 volumes of air contain about 4 of carbonic acid; and 100 volumes contain an average of 0.84 watery vapor.

The proportion of oxygen in dried air does not vary sensibly, but in the natural state there is a considerable variation, due to the ever-changing quantity of water which it contains; thus with 0.84 volumes per cent. of water, the atmosphere contains 20.82 volumes per cent. instead of 21 of oxygen. In Benares, on the Ganges, where the absolute amount of moisture rises to 3.6 per cent., the oxygen volume per cent. of such an atmosphere is equal to 20.24. (Graham Otto, Lehrbuch, ch. II, part 1, p. 138.)

The carbonic acid, small in quantity though it be, is sufficient, and is as essential to vegetable life as oxygen is necessary to animal life. Animals inhale oxygen and exhale carbonic acid, while plants absorb carbonic acid, appropriate its carbon for their tissue, and reject the oxygen. A balance is thus maintained in the atmosphere like that which we are able to effect upon a small scale in an aquarium. While this small amount of carbonic acid is ample for all the vegetation upon the globe, the oxygen is in great abundance for the purposes of animal life.

Poggendorf (Handwörterbuch der Chemie, Atmosphere) has given the following curious calculation of the actual amount of oxygen present in the atmosphere, and what portion of it is needed for the respiration of the human race. He estimates the height of the atmosphere at only one geographical mile (24.555 Paris feet) of air, supposed to be of the same density throughout as that of the atmosphere at the level of the ocean, and the total volume of air to be equivalent to a cube of 210 miles side; hence the cube representing the volume of oxygen will have a side equal to 125 miles, = 1,954,570 cubic miles. An adult man consumes 26.04 Paris cubic feet of oxygen in 24 hours; in a year, therefore, 95.052 cubic feet; and the total human race, estimated at one thousand millions, would require for a year's respiration 9,505,200,000,000 cubic feet of oxygen, which equals 0.7975, or nearly $\frac{8}{10}$ of a cubic mile. If one thousand millions of persons had lived always upon the earth, and were able to consume the last atom of oxygen, the quantity present would last them 2,451,000 years; or, from Adam's time to the present they would have consumed only $\frac{1}{403}$ of the oxygen. A single tenth of a per cent. of the atmosphere would provide the whole human race with oxygen for ten thousand years. From this calculation the inference is drawn that immense quantities of oxygen might be added to or withdrawn from the atmosphere without being perceived by our most delicate methods of analysis. Estimating a loss of oxygen from the respiration of animals, combustion, and other sources of oxydation, equal to a hundred fold that caused by mankind, it would require these united causes to act for one thousand years to cause the disappearance of one per cent. of oxygen from the atmosphere. Similar calculations by Marchand and by Wackenroder establish the enormous quantity of oxygen in the air compared with that which is needed for the support of animal life. The plants restore whatever loss may arise from the above causes; but whether the compensation is absolutely exact, or whether the oxygen is steadily increasing, or in like manner diminishing, it is impossible to determine by analysis, owing to the imperfections of our instruments and processes, and the brief periods which the researches embrace.

An *exact* compensation is improbable; if there were such, there could be no carbonic acid in the atmosphere. If, again, the plants reduced as much carbonic acid as the *animals* exhale, they would increase in proportion to the quantity of this gas proceeding from combustion, volcanoes, gas-springs, &c. But it is well known that plants are constantly forming humus, and that large deposits of coal are buried in the earth. As this involves a disappearance of carbonic acid, the atmosphere was formerly richer in this gas than now. Hence the effect of plants, united with that of the moist earth and of the ocean, overcomes the effects which carbonic acid produces; the atmosphere becomes continually poorer in carbonic acid, and plants would ultimately be restricted in their growth without some other source of the gas unknown to us. To establish these conclusions it would require the most accurate determinations of the atmospheric oxygen and carbonic acid, to be performed during the period or at the intervals of a century. (Poggendorf.)

The question whether the *oxygen* in the atmosphere experiences a diminution by the respiration of men and animals, stands in intimate connection with the inquiry whether the proportion of atmospheric *carbonic acid* increases from these processes. By the oxidation of carbon to carbonic acid one volume of the latter gas arises from every volume of oxygen which disappears; consequently, a diminution in the oxygen would be accompanied by an increase in the carbonic acid. If, therefore, in one thousand years one per cent. by volume disappeared from the atmosphere, we should find in its stead *a per cent. by volume of carbonic acid*, and this increase would be the more considerable if we reckon the carbonic acid exhaled by volcanoes and other physical processes of the earth, to that arising from animal respiration; but the most accurate investigations have demonstrated that the air does not contain more than about $\frac{1}{25}$ of one per cent. of carbonic acid. It is not unreasonable, therefore, to infer that the plants, a known source of oxygen, restore this gas to the atmosphere. (Graham Otto, vol. II, part 1, page 133.)

The proportion of oxygen in the atmosphere.

Soon after the discovery of oxygen it was supposed that the purity or healthfulness of the air was due to this gas, and hence the process for determining its proportion in the atmosphere was called eudiometry. From the imperfections of analytical processes and instruments, very erroneous conclusions were reached in the early investigations. The atmospheric oxygen was first placed at from 18 to 25 per cent. by volume. Scheele found from 25 to 33, and finally 27. Lavoisier gave at first $\frac{1}{4}$, then $\frac{1}{5}$, for the proportion of oxygen in the air, and subsequently assigned between 27 and 28 per cent. by volume. The first accurate results were obtained in the commencement of the present century by Gay Lussac and Humboldt, at Paris. They found in the air of that city, by twenty-nine experiments with Volta's eudiometer, performed at all seasons and in all weathers, a minimum of 20.9, a maximum of 21.2, and a mean of 21 per cent. by volume of oxygen. Since their researches numerous determinations of oxygen have been made, and we have an accurate knowledge of the composition of the atmosphere. According to the late researches of Bunson, and those of Reiset and Regnault, the percentage of oxygen in the atmosphere is a trifle greater than was at first inferred. Bunson found 20.93 per cent. by volume, and Regnault and Reiset 20.96. If we take their mean, the atmosphere will contain by volume—

Oxygen	20.95
Nitrogen	79.05
	100.00

If we convert these numbers into per cents. by weight by multiplying them respectively by the specific gravity of the gases, we will have for the composition of the atmosphere by weight—

Oxygen	23.16
Nitrogen	76.78
	99.94

Or nearly 100, which demonstrates the accuracy of the numbers expressing the densities of these gases. In view of the important function of the atmospheric oxygen a collection of the actual results obtained by those who have determined its proportion in the air may be deemed not uninteresting.

The following are Th. De Saussure's analyses performed upon air collected upon a meadow at Chambeisy, a league from Geneva, and that from the middle of the Lake of Geneva—(Pogg. Ann. 38, p. 171 :)

De Saussure's analyses.

Place.	Day.	Wind and weather.	Oxygen, per cent. by vol.
	1836		
Lake	July 18	Clear; calm	21.08
Chambeisy	August 3	Clear; gentle NE	20.98
Do	August 16	Clear; moderate SW	21.03
Do	August 25	Clear; gentle NE	21.03
Do	August 27	Rainy; very strong SW	21.13
Do	August 27	Rainy; very strong SW	21.15
Do	September 13	Clear; gentle NE	21.08
Lake	September 13	Clear; gentle NE	21.09
Chambeisy	November 5	Cloudy; calm	20.98
Do	November 21	Cloudy; strong NE	21.086
Do	December 13	Calm; foggy	21.006
Do	December 24	Cloudy; strong NE	21.1
Do	December 28	Clear; strong NE	21.0
Lake	December 29	Clear; weak SW	21.04
		Average	21.05

Bunsen's analyses of air establish the accuracy of his process. They differ at the most $\frac{3}{100}$ p. c., and are as follows—(Handwörterbuch der Chemie:)

Table of Bunsen's analyses.

Date.	PERCENTAGE OF OXYGEN BY VOLUME BY—	
	1st analysis.	2d analysis.
January 9	20.973	20.958
January 18	20.928	20.901
January 20	20.923	20.927
January 24	20.921	20.943
January 26	20.927	20.934
January 28	20.928	20.911
January 30	20.889	20.892
February 1	20.840	20.871
February 3	20.925	20.940
February 5	20.937	20.952

Regnault, (Comptes-Rendus, xxvi, pp. 11, 156, 233; also Jour. Pr. Chemie 44, p. 49, and 43, p. 166,) in an extensive series of analyses of air performed at Paris from December 24 to 31, 1847, ascertained the percentage of oxygen to be from 20.9 to 21 by volume; and during January, 1848, from 20.89 to 20.99; and that the analyses of specimens of air taken at different times during the same day gave results which varied within these limits.

The same author (C. R., xxxiv, 863) gives the following results of a number of analyses which, in pursuance of a plan conceived in the year 1848, were performed upon specimens of air collected at noon on the 1st and 15th of each month in as many places as possible. He estimates the error of analysis to be not above 0.02 per cent. From these results Regnault estimates the normal variations of oxygen to be from 20.9 to 21.0; but asserts that in tropical regions it can sink to 20.3.

Table of Regnault's analyses.

Experiments.	OXYGEN PER CENT. BY VOLUME.	
	Minimum.	Maximum.
More than 100 specimens of air from Paris and environs, 1848	20.913	20.999
Nine specimens from Lyons, Montpellier, St. Martin aux Arbres	20.918	20.966
Thirty specimens at Berlin, 1848–'49	20.908	20.998
Ten specimens at Madrid, 1848	20.916	20.982
Twenty-three specimens at Genoa, Mont Saleve, and Mont Buet	20.909	20.993
Fifteen specimens at roadstead of Toulon, Mediterranean Sea, and Algiers harbor	20.912	20.982
Five specimens, passage from Liverpool to Vera Cruz	20.918	20.965
One specimen at Gullalamba, Ecuador	20.960	.....
Two specimens at Pichincha—higher than Mont Blanc	20.949	20.988
Average oxygen in Paris and environs	20.96	.....
Twenty-nine specimens of air collected by Ross in the polar seas in 1848–'49	20.9	.....

Stas (Jr. Pr. Chemie, xxvi, p. 297) performed at Brussels twelve analyses of atmospheric air collected at different times, and obtained a percentage of oxygen (by weight) which varied from 23.04 to 23.08. On two occasions, without knowledge of any error, he found 23.11 and 23.14. He thus found the composition of the air of Brussels to be the same as that of Paris, Geneva, and Copenhagen, and confirmed the observation

made at Paris, that, from some unknown cause, sudden changes at times modify the composition of the air.

Boussingault (Ann. de Ch. et de Phys., series 3, vol. iii, p. 281) determined the oxygen at different elevations and obtained the following average results:

Boussingault's analyses.

Locality.	Elevation above the sea, in meters.	Percentage of oxygen, by volume.
Santa Fé de Bogota	2,650	20.65
Ibaqué	1,323	20.70
Mariquita	548	20.77
Average		20.70

The following table comprehends the results of Dumas and Boussingault. (Ann. de Ch. et de Phys., 3, III, 304.) The experiments were performed at Paris with different wind and weather:

Table of Dumas's and Boussingault's analyses.

Day.	Barometer, *m.m.*	Thermometer, C°.	Wind.	Sky.	Oxygen, p. c., by weight.
April 27, 1841	759.5	23°	S.	Clear	22.92
April 28, 1841	758.3	25°	SE.	Clear	23.06
April 29, 1841	757.6	27°	NW.	Clear	23.03
May 29, 1841	759.7	17°4	N.	Rain	23.01
July 20, 1841	753.9	19°	S.	Rain	23.00
July 21, 1841	752.1	14°7	SW.	Clear	23.00
July 24, 1841	758.2	17°8	N.NW.	Clouded	23.08
September 20, 1841	758.9	22°6	N.	Clear	23.07
September 22, 1841	751.2	21°	S.SW.	Clouded	22.89
Average					23.007

The following simultaneous analyses of air were performed at different places—(Ann. de Ch. et de Phys., 3, III, 301 :)

Table.

A. At Paris, by Dumas and Boussingault. Garden of Dumas's laboratory.

Day.	Hour.	Weather.	Oxygen, per cent., by weight.
July 20, 1841	1½ to 5 p. m	Sky clouded; rain during experiment	23.05
July 21, 1841	11½ p. m	Sky clear	23.00
July 24, 1841	10 a. m. to 2 p. m.	Sky clear; no wind	23.07
		Average	23.04

B. At Berne, Switzerland, by Brunner.

Day.	Hour.	Weather.	Oxygen, per cent., by weight.
July 20, 1841	.....	Slightly cloudy; west wind	23.00
July 21, 1841	11 p. m	Sky cloudy	22.89
July 24, 1841	7 to 8 a. m.....	Clear.....	22.97
July 24, 1841	7 to 9 p. m.....	.....	22.96
		Average.....	22.95

C. Faulhorn Mountain, Switzerland, by Martin and Bravais. This air was taken at the "*Hospice*," twelve meters below the summit of the mountain, and 2,683 meters above the sea level.

Day.	Hour.	Weather.	Oxygen, per cent., by weight.
July 20, 1841.....	9 a. m	Clear, fine 36 hours.....	22.96
July 21, 1841.....	6 to 11 p. m..	Cumuli over the whole sky.....	23.10
July 24, 1841.....	7 to 8 a. m...	Snow previous night—fog.....	22.95
July 24, 1841.....	6 to 7 p. m...	Fog disappearing, wind southwest.	22.85
August 7, 1841.....	4 to 4½ p. m..	Sky clear for 48 hours.....	22.97
		Average	22.97

Laskowski (Ann. de Ch. et de Pharmacie) examined the air of Moscow during the cholera epidemic from November 3 to 11, 1847, and found by 14 experiments from 20.73 to 20.89 volume per cent. of oxygen, and a mean of 20.82.

Dumas (Comptes Rendus XIV, 379) communicated to the French Academy the following results obtained by several chemists who had zealously devoted themselves to the analysis of the following atmosphere:

Table of Marignac's analyses.

A. Marignac, Geneva, 1842.

Date.	Per cent., by weight.
January 11	23.01
January 18	23.00
February 3	22.97
Average	22.98

B. Lewy, at Copenhagen.
I. In the court-yard of the Polytechnic Institute.

Date.	Time.	Weather.	Oxygen, per cent., by weight.
November 17	4 p. m.	Snow	23.00
November 30	M	Clouded	23.02
December 12	10.30 a. m	Clear	22.96
December 15	12.30 p. m	Clear	22.99
December 22	11.30 a. m	Snow	23.01
		Average	22.996

II. Air at sea, (the Baltic.)

Day.	Time.	North latitude.	West longitude, from Paris.	Oxygen, per cent., by weight.
		° ′	° ′	
August 4	8.30 a. m.	57 56	8 22	22.57
August 3	10.45 a. m.	55 30	5 30	22.58
August 2	1 p. m.	52 36	0 58	22.59
August 3	1.15 a. m.	54 15	2 7	22.56
Average				22.575

III. Analysis of air from the sea-coast, with a sea wind, at 35 feet above the ocean level. Air received at the Fortress Kronburd, 12 miles from Copenhagen.

Day.	Time.	Weather.	Wind.	Oxygen, per cent., by weight.
February 18	9.30 a. m.	Clouded	NE.	23.02
February	do.	do	NE.	23.01
February	do.	do	NE.	23.02
Average				23.016

The mean of the results at Geneva is exactly the same as that obtained at Paris.

The air of Copenhagen has also the same composition. The sea air contains less oxygen at the ocean level, but at an elevation of 35 feet it possesses the same composition as that of the interior of the country.

Verver found in the air of Gröingen 22.998 per cent. by weight of oxygen.

The contamination of the atmosphere by the products of human life and industry in cities does not diminish to a serious extent its proportion of oxygen. This is shown by the following experiments of Dr. R. Angus Smith (Qr. Jour. Chem. Soc., xi, 299) upon the air of Manchester. The diminution of oxygen constitutes from 0.1 to 0.2 per cent. by volume, although with gusts of smoke it may be greater.

Table of the air of Manchester, by Dr. Angus Smith.

Specimen No.	Remarks.	Oxygen, per cent., by volume.
1	Air collected at different times in Manchester	20.868
2		20.179
3		20.807
4		20.613
5		20.793
	Mean of numbers 1, 3, 4, and 5	20.770

The following table (compiled from Gmelin's chemistry) comprises the results of observations upon the atmospheric oxygen made by different analyses. Some of the numbers appear to be inadmissible; I quote them, however, for the sake of the general view of the subject:

Table of oxygen analyses by various observers.

Observer.	Remarks.	Oxygen, per ct. by volume.
Berthollet	In Cairo and in Paris	Nearly 22.0
De Marty	Catalonia, under all circumstances and in inhabited rooms	21–22
Sir H. Davy	Bristol, other parts of England, on the coast, at sea and in air, from the coast of Guinea.	21
Berger	Jura, mountains and valleys of Savoy, upon the glaciers and in the Wallis Valley.	20.3–20.65
Configliachi	Simplon, Mt. Cenis, and other Alps	21
Do	Upon marshes	21
Do	Upon rice fields	20.8
Do	In confined places	20.3
G. Lussac and Humboldt.	Paris, under all circumstances	20.9–21.1
Gay Lussac	In Paris, and at 6.636 meters above the earth in a balloon	21.49
A. Vogel and Krüger	Over the Baltic Ocean	20.59
Hermbstädt	On the coast of the Baltic Ocean, 5 feet above its level	21.5
Do	On the coast of the Baltic Ocean, 16 feet above its level	20.5
Do	In the country	20.0
Marchand	From 10 analyses of air, from 20.9–21.03 mean	20.97
Dalton	In England, usually	20.7–20.7
Do	In England, occasionally	21
Do	In England, maximum January 8, 1825, wind N. E	21.15
Do	In England, air, from Helvellyn, 3,000 feet high	20.64
Do	In England, Manchester	20.99
Do	In England, Helvellyn	20.63
Do	In England, Manchester	20.73
Do	In England, Snowdon, 3,570 feet elevation	20.70
Do	In England, from the plain, three miles from Manchester	20.85
Do	In England, air collected in a balloon, by Grafton, 9,660 feet high.	20.70
Do	In England, Manchester	20.83
Do	In England, air, by Green, balloon 15,000 feet high	20.62
Do	In England, Manchester	20.93
Do	Air, from Mer de Glace Chamounix, 6,000 feet high	19.80
Do	Air, from Simplon, 6,174 feet high	19.76
Do	Air, from Wengern Alp, 6,230 feet high	20.28
Th. Thompson	In Glasgow, average of numerous experiments	21.01
Kupffer	In the air of Kasan	21–21.2
Brunner	In Switzerland, in the valley	21.07
Do	In Switzerland, lakes	20.85
Do	In Switzerland, upon the Faulhorn	20.915
Green	Air, by a balloon, 11,300 feet high	21
Baumgartner	Air, in Vienna, during the cholera	20.4–21.4
Schiel	In the air of the prairies of North America; elevation above ocean 2,330 feet.	0.91

From these results we perceive, first, that the normal proportion of oxygen in the atmosphere has been determined with very considerable precision; and, second, that an analysis determining the amount of this gas in the air of an inhabited apartment will afford no data for estimating the character of its ventilation.

II. ANALYSES DETERMINING THE CARBONIC ACID IN THE ATMOSPHERE.

More important, for the purposes of this research, is the question of the proportion of carbonic acid in the air. This gas, when present in excess, is poisonous to animal life. It accumulates in inclosed places by the breathing of men and animals when not removed by the introduction of fresh air.

The proportion of carbonic acid which is actually injurious to life is unknown, and there is much difference of opinion as to how much can be borne with safety; probably a very small excess over the normal quantity in the atmosphere would prove hurtful if it acted continually upon the system. Hence it becomes important, where there is a question of ventilation, to ascertain the normal quantity present in the atmosphere, and to increase the ventilation as near to that point as may be consistent with other effects to be produced, such as warmth, absence of currents, and the like. I proceed to give the results of analyses of the atmosphere, and of the air of inhabited rooms, so that we may be able to compare them with similar results which I have obtained in Washington.

From the healthful nature of country air when compared with that of cities, we might expect to find a *much* smaller amount of carbonic acid in the air of the former compared with that of the latter; but experiments do not warrant this assumption, and we must assign the insalubrity of cities to other causes.

Dr. R. Angus Smith (Quarterly Jour. Chem. Soc., xi, 196) has shown this by an extended research into the air of towns, selecting for his experiments a city of which the air should be much contaminated by the results of human industry.

This locality is Manchester, England, with its environs, a district comprehending many hundred square miles, every portion of which is influenced by the smoke of manufactories consuming bituminous coal, and of which we have not the like in any portion of our own country. Dr. Smith says that the tinge of darkness in the atmosphere, arising from the smoke, may be seen making a line of at least forty miles in length, and affecting vegetation injuriously, (by the deposition of carbon;) thus influencing the character both of the sky and of the landscape.

Two millions of tons of coal are burned annually in this city. It is interesting to calculate the amount of carbonic acid gas which the combustion of this coal would add to that arising from the breath of the inhabitants, and that normally present in the atmosphere. Dr. Smith supposes that the smoke may influence the air to an elevation of 600 feet, and gives the following estimate of its effect upon the atmosphere:

	Carb. acid, per cent. by volume.
On a space of 16 square miles, 60 feet high, the consumption of this amount of coal yields the following	1.6499
The amount already in the air is, say	0.06
Suppose that 400,000 inhabitants exhale 266 cubic feet of air, containing 6 per cent. of carbonic acid, there would be 330 tons, or volumes per cent	0.0362
Hence in the air there would be	1.7461

If this were changed ten times per day, the per cent. of carbonic acid in the air, at any given period, would be—

From coal	0.16499
From breath	0.00362
The normal quantity	0.06
	0.22861

If changed 20 times, we would have—

From coal	0.08248
From breath	0.0018
Normal	0.06
	0.14428

But assuming the height influenced to be 300 feet instead of 60, and the air to be changed ten times, then we would have—

From coal	0.033
From breath	0.00072
Normal	0.06
	0.09372

By the observations of Mr. Hartnup, the air at Liverpool has an average speed of 12.62 miles per hour. If we suppose it to be 12 miles at Manchester, it would sweep over four miles thirty-six times in twelve hours. This would give, for a height of 30 feet, of carbonic acid—

From coal	0.0091
From breath	0.0002
Normal	0.06
	0.0693

And assuming the air outside of the city to contain 0.03 per cent. of normal carbonic acid, we would have then—

From coal	0.0091
From breath	0.0002
Normal	0.0300
	0.0393

The last results accord, as well as can be expected, with the following analyses by Dr. Smith. The analyses were effected by drawing a known quantity of air through tubes containing substances capable of depriving it of moisture and carbonic acid. The weather was remarkably open and fine, and the results were sometimes lower than those calculated for the air in the country. When much wind is blowing they average from 4.5 to 8, and with little wind from 10 to 12 volumes of carbonic acid in 10,000 of air.

Table of Dr. Angus Smith's analysis.

No. of analysis.	Locality.	Cubic feet of air tested.	Carbonic acid, per 10,000 volumes of air.
1	Literary and Philosophical Society, Manchester	14.63	4.09
2	....do....do....do....do	9.2	5.73
3	....do....do....do....do	5.0	4.55
4	....do....do....do....do	4.6	15.44
5	....do....do....do....do	6.91	5.44
6	....do....do....do....do	5.38	11.95
7	....do....do....do....do	2.256	9.73
8	....do....do....do....do	2.98	9.72
9	....do....do....do....do	4.6	5.75
10	....do....do....do....do	3.83	6.68
	Average	.....	7.908
11	Hills near Preston	.....	2.2
12	At Blackpool	.....	3.0
	Hence, increase by smoke, &c., in Manchester	.....	4.9

The following table contains additional results obtained by Smith by a method of analysis in which manganate of potassa was employed in determining the carbonic acid. This method has not been sufficiently tested to warrant confidence in its accuracy, although the results accord pretty well with each other.

Table of analyses, (Dr. R. A. Smith,) in which manganate of potassa was employed.

No. of analyses.	Date.	Locality.	Weather.	Carbonic acid per 10,000 vols. air.
1st series.				
1		Manchester		9.81
2		do		10.12
3		do		9.55
4		do		8.99
5		do		9.27
6		Closed and crowded railway carriage		34.84
2d series.				
1	May 17	At laboratory, Manchester	Very wet day; wind blowing toward the city.	5.22
2	do	do	do do	5.46
3	do	do	do do	5.70
4	do	do	do do	5.64
5	do	do	do do	5.88
6	do	do	do do	5.83
7	May 18	Other side of the town, wind blowing violently, allowing no circulation.	Very dry and clear day	6.79
8	do	do do	do	9.37
9	do	do do	do	7.09
10	do	do do	do	7.09
11	do	Manchester, at Oldham road, where much carb. acid might be expected.	Very wet day	7.17
12	do	do do	do	7.21
13	do	do do	do	6.71

The elder De Saussure observed the presence of carbonic acid in the atmosphere of the summit of Mont Blanc, in the region of continual snow. The younger De Saussure investigated, at Geneva, the proportion of this gas in the air, in a research which has become classical, and of which the results are accepted yet as among the most, if not the most, accurate of any which we possess.

The following table (Pogg. Annalen, xix, p. 426) comprises some of the results of Th. De Saussure's analyses, quoted by Dr. Gilm, (K. Acad., Wien, xxiv, p. 279 :)

Table of De Saussure's analyses.

	Car. acid in 10,000 vols. of air.
1827—November 6	4.06
1827—November 14	4.16
1827—November 21	3.91
1827—December 5	4.06
1827—December 22	4.18
1827—December 27	4.13
1830—January 3	4.79
1829—January 28	4.26
1829—February 21	3.66
1827—February 19	3.58
1829—February 19	4.26
1829—March 7	4.25
1829—March 12	4.25
Average	4.12

De Saussure's experiments extended over the years 1827–'29, and embraced the number of 225 analyses. They were performed at Geneva, and on the estate of the author, at Chambeisy, a village lying upon a dry, airy meadow, (with clay soil,) 16 meters above Lake Geneva, and ¾ of a league distant from the city of the same name. Comparative experiments were also made upon the air of the lowlands and that of the mountains.

The following compend of the results of these most interesting experiments (Handwörterbuch der Chemie Poggendorf, Liebig, &c.; art. Atmosphere) illustrates their value:

Compend of Th. De Saussure's analyses.

In Chambeisy, four feet above the ground, the amount of carbonic acid, at all times and seasons, deduced from 104 analyses, is—

	Car. acid per. 10,000 vols.
Minimum	3.15
Maximum	5.74
Mean	4.15

By separating the results by day and night, we have, by day—

Minimum	3.15
Maximum	5.40
Mean	3.38

And by night, viz:

Minimum	3.21
Maximum	5.74
Mean	4.32

From which it appears that the amount by day is less than by night. At noon the carbonic acid was lower with a gentle than with a strong wind; thus—

With a gentle wind, mean	3.76
With a strong wind, mean	3.98

The effect of rain could not be determined by comparing the results at Chambeisy with those obtained simultaneously at Geneva, because, with much rain in Geneva a smaller amount of carbonic acid was found at Chambeisy, and inversely. De Saussure considers the uniform moistening of the ground by gentle rain more productive of carbonic acid than by a strong rain. It acts by cooling the ground. Frost also increases the carbonic acid.

Thirty six comparative experiments at Chambeisy and in the middle of Lake Geneva, four feet above its level, gave—

For Chambeisy, mean	4.60
For the lake, mean	4.39
For the lake, minimum	3.42
For the lake, maximum	5.78

Thirty comparative experiments between the air of Chambeisy and that of a street in Geneva yielded—

For Geneva	4.68
For Chambeisy	4.37

The day observations gave the above results; those of the night yielded a smaller proportion for the town than for the country.

Finally, De Saussure observed that the proportion of carbonic acid was greater on the tops of mountains than in the plains or valleys, as may be seen from the following, (Pogg. Ann., xix, 422, and Karsten, Alg. Encyk. d. Physik Lieferung, iii, p. 26, Meteorologie:)

Table of De Saussure's analyses. (Carbonic acid on mountains.)

Locality.	Metres above ocean.	July 20, 1827—12 *m.*	June 28, 1828—12 *m.*	May 25, 1829—*m.*	July 14, 1829—11 *h.*	July 15, 1829—12 *h.*	Aug. 7, 1829—11 *h.*	Aug. 8, 1829—12 *h.*	Sept. 29, 1829—11 *h.*	Sept. 30, 1829—12 *h.*
Chambeisy, Lake Geneva	388	4.74	4.46	.....	4.14	4,15	3.87	3.22	3.55	3.15
Col de la Faucille. Jura	963	.....	.....	.....	4.43	4.54	3.69	3.60	4.22	3.95
Summit of the Dôle	1,267	4.91	4 91	.....	.....	.....	.....	.....	.....	.....
Chambeisey	388	.....	.....	4.13	.....	.....	.....	.....	.....	.....
Cologne, base of Salève	.....	.....	.....	3.67	.....	.....	.....	.....	.....	.....
Grand Salève-sur-Grange Tourmès	945	.....	.....	3.59	.....	.....	.....	.....	.....	.....

Chambeisy, 1829, May 25, m., 388 meters	4.13
Cologne, base of Salève, 1829, May 25, m	3.67
Grand Salève-sur-Grange Tourmès, 1829, May 25, m., 945 meters	3.59

By the side of these experiments of Saussure, showing that the proportion of carbonic acid is greater in the more elevated regions, (as Gay Lussac also found was the case by experiments upon air collected during his aerostatic journey,) may be placed those of Messrs. Schlagintweit.

These chemists investigated the air of the Alps. H. and A. Schlagintweit (Pogg. Ann., lxxvi, 442) found that in the air of the eastern Alps the carbonic acid increased progressively, according to the elevation, to 3,366 meters, which height they believe to be the limit of a constant maximum. Their results yielded from 3.2 to 5.8 per 10,000 volumes.

A. Schlagintweit, (Pogg. Ann., lxxxvi, 293,) in an examination of the air of the Western Alps, in the neighborhood of Monte Rosa, confirmed the above results. At the height of from 3,162 to 4,224 meters, when the air was clear, it contained a mean amount of 7.9, and a maximum quantity of 9.5 carbonic acid. When the place of observation was enveloped in a dense cloud, which extended to the lower valleys, the proportion of carbonic acid sank to 5.9. At Berlin (elevation 32.5 meters) S. found by three observations 3.9 to 4.5 carbonic acid. The following table gives the details of these results:

Table of Schlagintweit's analyses.

Date.	Locality.	Meters elevation.	Weather.	Wind.	Carb.acid, p'r 10,000 volumes.
1848.(?)	*Eastern Alps.*				
Aug. 18	Lienz	752	On 17th, p. m., storm	NW	4.2
20	Johannis Hutte	2,461	Fog near	SE	4.8
Sept. 4	Rachern	3,366	Clear	NW	5.8
6	Johannis Hutte	2,478	Slight cirri	NW	4.7
6	Pasterze	2,449	Clouds in the west	E	3.2
9	Heiligenblut	1,308	Slight rain	SW	4.1
1851.	*Western Alps.*				
Sept. 18	St. Jean de Gressoney, Piedmont.	1,370	Cloud to the tree line and continual rain.	SE	4.97
Aug. 19	Zermatt, Wallis	1,652	Cloudy; rainy	E. NE.	4.80
Sept. 17	Bödemie, Piedmont	1,925	Thick clouds; light rain	SE	4.75
4	Vincent Hütte, Monte Rosa	3,162	Occasional cloud and fog	NE	7.53
5	....do	3,162	Half clear	SW	7.30
5	....do	3,162	Thick clouds	E	5.94
6	....do	3,162	Clouded; misty	NE	8.81
8	....do	3,162	Occasional cloud and fog	NE	8.29
10	....do	3,162	Thick clouds	NE	6.34
14	....do	3,162	Thick clouds, but little broken	SE	6.64
15	....do	3,162	Very clear	N	9.51
Aug. 25	Matterjoch	3.353	Occasional clouds 1,000 to 1,500 feet above the mountain.	SW	9.16
Sept. 12	Vincent pyramid	4,224	Very clear	E. NE	9.32
June 9 to 21.	Berlin	32.5	Half clear	W	4.22
	....do	32.5	Clear	W	3.90
	....do	32.5	Clear	W	4.53

The following are some of the results obtained by other observers upon the proportion of carbonic acid in the atmosphere:

Table of carbonic acid results.

Observers.	Remarks.	Carb. acid in 10,000 volumes.
Verver	In 90 experiments, mean	4.188
Verver	In 90 experiments, maximum	5.05
Verver	In 90 experiments, minimum	3.57
Brunner	In air of the country, mean	5.00
Dalton	In the atmosphere	6.5
Configliachi	In the atmosphere	8.0
Humboldt	In the atmosphere	5.0
A. Vogel	In the air of the Baltic almost none (?)	0.0 (?)
Emmet	In the air of the Atlantic always, and at Bermuda	1.25
Beauvais	Air collected from a balloon	5.0
Marchand	Jour. Pr. Ch., xliv, 24. Mean of 150 analyses	3.1
A. Vogel, jr	Air of Munich during cholera, August 10–20, 1854	3 to 4

Frankland (Qr. Jour. Chem. Soc., xiii, 22) found the following to be the composition of the air in Switzerland at different elevations upon Mont Blanc:

Table of Frankland's analyses.

Locality.	Feet above the level of the ocean.	In 10,000 vols. of air.	
		Oxyg	Carb. acid.
Chamounix	3,000	2089.4	6.3
Grand Mulets	11,000	2080.2	11.1
Summit of Mont Blanc	15,732	2096.3	6.1

Méne has published the results of numerous experiments upon the carbonic acid of the atmosphere, (Comptes Rendus, xxxiii, pp. 39, 222; xxiii, p. 39; lvii, 155, &c.) He gives the same amount of carbonic acid in the air for the months of December and January. From February to May it increases; from June to August it diminishes, and from September to November it increases again; so that in October the air is richest in this constituent. During the night the carbonic acid is less than in the daytime. During the day there is a slight increase toward noon. After a rain the carbonic acid increases.

The following are Méne's experiments upon the atmosphere in Paris, tested at different elevations upon the Pantheon. Méne infers that at a certain elevation there is less carbonic acid than at the surface of the ground.(?)

Table of Méne's experiment.

Date.	Time of experiment.	Carbonic acid per 10,000 vols. of air.
August 4, 1851	8 to 9 a. m	3.4
August 4, 1851	M. to 1 p. m	4.2
August 4, 1851	5 to 6 p. m	2.7
August 5, 1851	8 to 9 a. m	1.2
August 5, 1851	M. to 1 p. m	2.7
August 5, 1851	4 to 5 p. m	2.9
August 6, 1851	7 to 8 a. m	1.32
August 6, 1851	M. to 1 p. m	3.6
August 6, 1851	7 to 8 p. m	2.99
August 7, 1851	8 to 9 a. m	1.25
August 7, 1851	1 to 2 p. m	3.4
August 7, 1851	5 to 6 p. m	1.12
	Average	2.315

Henry H. Watson (Rep. 4th meeting British Association, p. 583) made an extensive research upon the atmospheric carbonic acid in Bolton, England, and in the neighborhood, from which he inferred the air of the city to be richer in that gas. The method of analysis employed is similar to that proposed by Pettenkoffer. A solution of lime-water was used for absorption; the strength of the solution in lime, before and after the absorption, being determined by sulphuric acid.

The following table embraces his results.

Horrock's Moor lies three miles to the northwest from Bolton, and is by barometric observation 544 feet higher.

Winter Hill is between five and six miles northwest from Bolton, and 1,211 feet higher. The west and northwest winds blow from the sea.

Watson does not agree with De Saussure in finding uniform differences corresponding to the different seasons and dry or wet weather, and attributes the actual differences in this respect rather to the unavoidable errors of analysis.

Table of analyses by Watson.

Locality.	Time.	Weather.		Wind.	Temp., Fahr.	Carb. acid in 10,000 volumes.
		At time of experiment.	Before experiment.			
	1832.				°	
Bolton, England.	September 28, 5h. 30m. p. m *...	Fair.....	8 fair days ..	.....	.....	5.282
Do.....	October 5, 1h. p. m	Rain	1 fair day....	.....	53	5.282
Do.....	October 11, 10 a. m. to 3 p. m..	Rain	4 wet days ..	.....	60	5.282
Do.....	October 13, M.....	Rain	6 wet days ..	.....	57	4.448
Do.....	December 31, M.....	Rain	8 rainy days.	.....	38	5.282
	1833.					
Do.....	February 2, 10 p. m	A little rain.	1 fair day....	.....	35	5.559
Do.....	March 9, 3h. 30m. p. m	Snow.....	2 fair days...	.....	.....	5.000
Do.....	April 30, 6h. 30m. a. m.....	Fair.....	4 rainy days.	.....	38	8.620
Do.....	May 7, M	Fair.....	3 fair days...	.....	75	5.000
Do.....	May 9, 2 p. m	Fair.....	5 fair days...	.....	74	4.196
Do.....	May 11, midnight	Fair.....	2 wet days...	.....	54	5.559
Do.....	May 15, 6h. 30m. a. m	Rainy	1 fair day....	.....	60	4.739
Do.....	May 18, midnight	Fair.....	1 wet day ...	.....	56	6.393
Do.....	May 29, M	Fair.....	9 fair days...	.....	51	5.838
Do.....	June 4, 9 p. m.....	Rainy	2 wet days ..	.....	57	4.196
Do.....	June 11, 10 p. m.....	Rainy	1 fair day....	.....	58	4.196
Do.....	July 23, 1h. 30m. p. m	Rainy	5 wet days ..	.....	46	5.000
Do.....	September 24, 8h. 30m. p. m...	Rainy	1 fair day....	.....		6.393
Do.....	December 14, M.....	Rainy.....	1 wet day....	.....	.....	4.440
	Average of 19 experiments.	....	.....	.....	.....	5.300
	1833.					
Horrock's Moor.	August 1, 7h. 30m. p. m	Fair.....	2 fair days...	N	61	3.890
Winter Hill.....	August 8, 3 p. m	Fair.....	2 fair days ..	W	55	4.448
Horrock's Moor.	September 6, 2h. 30m. p. m	Fair.....	1 fair day....	E	65	4.739
Do.....	September 14, 3 p. m	Rainy	3 wet days...	N	62	3.890
Do.....	October 2, 3 p. m.....	Fair.....	2 fair days...	N.NW	60	4.196
Do.....	October 24, 3. p. m	Rainy	6 wet days...	S. SW.	52	4.448
Do.....	November 6, 2 p. m.....	Rainy	4 wet days ..	W* ...	46	3.614
Do.....	December 6, 2h. 30m. p. m.....	Rainy	9 wet days...	W* ...	40	3.614
Winter Hill.....	December 25, 1 p. m.....	Fair.....	12 wet days..	N.NW	34	4.196
	1834.					
Horrock's Moor.	January 2, 2h. 30m. p. m	Fair.....	7 wet days...	N	31	4.196
Do.....	January 30, 2h. 30m. p. m.....	Rainy	1 fair day....	SE	41	†4.196
Winter Hill.....	February 11, 2h. 45m. p. m	Fair.....	2 wet days ..	W	40	4.196
	Average of the above 12 analyses.	.....	.....	.....	.....	4.135

* Very strong wind. † Air taken during a thick fog.

Gilm (Sitzung's Bericht des Math. Natur. Classe des K. Acad. Wein, xxiv, 279) has given a number of analyses of the air, drawn from a garden at Innsbruck, according to his process, which has been described in a former page of this report. In these analyses he employed thirty liters of air, which passed through the apparatus in three hours. In testing the accuracy of his method, he determined by it the amount of carbonic acid liberated from 0.2 gram of carbonate of baryta, with the following satisfactory result:

Carbonic acid.

Calculated 0.0449 — obtained by experiment:	I.	0.0427
	II.	0.0455
	III.	0.0462
	IV.	0.0446
Mean		0.04475

Table of Gilm's determinations of carbonic acid.

Time.	Weather.	C'rbonic acid in 10,000 vols. of air.
November 18, 1856	Clear, cold	3.89
" 19, 1856	Calm, cloudy	3.83
" 22, 1856	Rain	4.30
" 29, 1856	Cloudy	4.33
December 2, 1856	Clear	4.53
" 5, 1856	Clear, cold	4.39
" 11, 1856	Sirocco	4.19
" 17, 1856	Clear, cold	4.15
January 2, 1857	Slightly cloudy	4.58
" 15, 1857	Snow	4.03
" 17, 1857	Clear	4.16
" 21, 1857	Clear	4.11
" 27, 1857	Slight clouds	4.10
February 6, 1857	Clear	4.38
" 12, 1857	Snow	4.31
" 17, 1857	Clear	4.35
" 22, 1857	Clear, calm	3.85
" 23, 1857	Sirocco	3.85
March 7, 1857	Clouded snow	3.82
Mean		4.15
Maximum		4.6
Minimum		3.8

Lewy (Comptes Rendus, xxxiii, 345; Jour. Pr. Ch., liv. 249, &c.) has made an extended research upon the atmospheric carbonic acid and oxygen, comparing the results obtained in Europe with those of the air of the Atlantic Ocean and of South America. He employed the analytical method of Regnault and Peiset. He found that the greatest difference between two analyses never amounted to more than $\frac{1}{10000}$, and most frequently $\frac{1}{100000}$.

The mean of analyses performed at eleven different places in New Granada yielded for normal air per 10,000 volumes:

Carbonic acid	4.008
Oxygen	2101.425
Nitrogen	7894.555

This result agrees with his observations upon the atmosphere of Europe.

The variations which he detected in the constituents depend upon the meteorological conditions. Thus, after a long rainy season there was less carbonic acid and oxygen than after a prolonged dry season. For example, by the examination of a large number of specimens of normal air of Bogota he found:

Atmospheric air.	During the rainy season; cloudy sky.	During the dry season, clear sky.
Carbonic acid	3.822	4.573
Oxygen	2099.542	2102.195
Nitrogen	7896.630	7893.232
In volumes of air	10000.000	10000.000

This demonstrates a difference, in favor of the dry season, of 0.751 carbonic acid, and 2.653 oxygen.

Taking the maximum and minimum of his results for the two seasons respectively, he found:

Atmospheric air.	Minima for the rainy season.	Maxima for the dry season.
Carbonic acid	3.609	5.043
Oxygen	2099.032	2103.199
Nitrogen	7891.758	7891.758
In volumes of air	10000.000	10000.000

The greatest difference, therefore, amounts to 1.434 for the carbonic acid, and 4.167 for the oxygen. These differences, he states, are almost the same as those found at Paris in meteorological conditions corresponding to the dry and rainy seasons of South America.

New Granada afforded Lewy very interesting results as to abnormal conditions of the air. During the extensive conflagrations for agricultural purposes, called *las quemas*, he discovered as much as 49 volumes of carbonic acid per 10,000 of air, the oxygen having at the same time experienced a diminution of 68.35 per 10,000. In the city of Santa Fé de Bogota he found at times an enormous quantity of carbonic acid in the air, which he attributes to volcanic agencies. Thus in 1850, during the months of May to July, the air contained from 3 to 4, and in the month of August the large quantity of 47 volumes of carbonic acid per 10,000; and he asserts that he is fully convinced of the accuracy of his method of analysis.

At sea Lewy discovered a larger proportion of carbonic acid and oxygen in the air by day than at night—a difference equal to 2.07 for the carbonic acid, and 9.96 for the oxygen. He attributes this to the action of the sunlight upon the ocean, liberating the gases which it holds in solution, and which are richer in oxygen and carbonic acid than atmospheric air. Thus, in air taken at a distance of four hundred leagues from the coast, upon the same day and with the same wind, he found:

Atmospheric air.	At 3 a. m.	At 3 p. m.
Carbonic acid	3.346	5.420
Oxygen	2096.139	2106.099
Nitrogen	7900.515	7888.481
In volumes of air	10000.000	10000.000

The following table, compiled by E. E. Schmid (Art. Meteorologie, Karsten's Encyklopädie des Physik) from the Annales de Chimie et de Physique, 3d ser., vol. xxxiv, comprises the results of Lewy's interesting research:

Table of Lewy's analyses of the atmosphere.

1. AIR OF GUADELOUPE.

(Dry air, per 10,000.)

Guadeloupe.	Elevation above ocean.	Sky.	Wind.	Temperature C.	1842.	Carb. acid, per volume.	Oxygen, weight.	Nitrogen, weight.
	Meters.			°	*h. m.*			
Plantation Deville, by the small canal.	25	Clear	E.NE .	28.9	Nov. 20, 0 30 p. m ..	147.6	2304	7696
	25	....do	..do ...	28.9	Nov. 20, 0 30 p. m ..	143.9	2302	7698
	25	Very clear.	..do ...	24.8	Nov. 21, 0 30 p. m ..	14.4	2305	7695
	25	Clouded...	NE ...	27.3	Nov. 23, 0 45 p. m ..	51.0	2314	7686
	25	Clear	Calm .	24.4	Nov. 23, 11 45 p. m ..	89.0	2285	7715
Mangroves of the river Salee.	0	....do	SE ...	29.5	Nov. 27, 2 00 p. m ..	2.6	2304	7696
	0	Very clear.	Calm .	22.5	Nov. 28, 0 45 p. m ..	9.8	2267	7733
	0	....do	..do ...	22.5	Nov. 28, 0 45 p. m ..	9.2	2269	7735
Plantation Petit Bourg.	25	....do	E.NE .	24.8	Nov. 29, 11 40 p. m ..	39.0	2300	7700

2. IN FRANCE.

(Dry air, in 10,000 volumes.)

Locality.	Winds.	Sky.	Temperature, C.	1847.	Carbonic acid.	Oxygen.	Nitrogen.
			°	*h. m.*			
Paris	W ..	Cloudy	15.5	Sept. 6, 12 30 a. m ..	5.144	2101.356	7893.500
Havre	W ..	Very cloudy.	10	Nov. 22, 8 45 a. m ..	3.588	2088.783	7907.629

3. UPON THE ATLANTIC OCEAN.

North latitude.	West longitude, (Paris.)	Distance from coast.	Sky.	Wind.	Temperature, C.	1847.	Carbonic acid.	Oxygen.	Nitrogen.
° ′	° ′	*Leagues*			°	*h. m.*			
47 30	10 5	55	Cloudy	E.SE..	16.0	Dec. 1, 11 30 a. m.	4.881	2015.170	7839.949
47 0	13 0	120	Clear	NW ..	23	Dec. 4, 3 00 a. m.	3.338	2096.321	7900.341
35 40	20 35	190	A little cloudy	NE ...	17.5	Dec. 8, 12 15 a. m.	5.497	2105.945	7888.558
22 5	39 0	400	Clear	NE ...	23	Dec. 17, 3 00 p. m.	5.771	2106.030	7888.199
21 45	41 3	435	....do	E	21.5	Dec. 18, 3 00 a. m.	3.346	2096.139	7900.515
21 9	42 25	412	A little cloudy	E	24	Dec. 19, 3 00 p. m.	5.420	2106.099	7888.481
20 35	43 35	390	Clear	E	22	Dec. 19, 3 00 a. m.	3.388	2096.074	7900.538
15 49	64 28	80	....do	E	27.2	Dec. 26, 1 00 p. m.	5.288	2105.889	7888.823
14 6	70 4	60	....do	E	27	Dec. 28, 2 15 p. m.	5.093	2105.686	7889.221
12 5	76 0	15	....do	NE ...	25.5	Dec. 30, 12 30 a. m.	5.143	2105.789	7889.068
.....	.....	1—2	....do	E	24	Dec. 31, 3 00 a. m.	3.767	2101.114	7885.119

4. IN SOUTH AMERICA.

(Dry air, per 10,000, per volume.)

Locality.	Elevation.	Sky.	Wind.	Temperature, Celsius.	1848.	Carbonic acid.	Oxygen.	Nitrogen.
	Meters.			°	*h. m.*			
Santa Marta	0	Clear	E	31.5	Jan. 25, 12 00 a. m..	4.616	2102.379	7893.005
Mompox	38	....do	E. NE.	32.5	Feb. 7, 3 25 p. m..	3.147	2104.936	7891.917
Rio Magdalene	.....	Cloudy	E. NE.	29.5	Feb. 18, 4 30 p. m..	3.259	2103.222	7893.519
Do	.....	Clouds	E. NE.	24.5	Mar. 3, 2 45 a. m..	4.554	2099.826	7895.620
Honda	242	Very cloudy	Calm..	26.0	Mar. 29, 3 00 a. m..	3.226	2099.237	7897.537
Ambalema	282	Clear	E	30.0	Aug. 5, 12 30 a. m..	11.203	2054.833	7933.964
Esperanza	396	....do	E. SE .	26.5	Aug. 2, 6 15 p. m..	*24.475	2033.075	7942.450
Guaduas	996	Cloudy	E	24.5	April 2, 1 45 p. m..	3.068	2099.691	7897.241
Santa Ana	998	Clear	E	27.5	Aug. 2, 1 30 p. m..	12.333	2054.479	7833.188
Bogota	2,645	....do	SE	17.0	July 8, 3 00 p. m..	4.994	2103.196	7891.810
Montserrate	3,193	Cloudy	E. SE .	9.0	July 8, 11 30 a. m..	5.215	2098.995	7895.790

* Las quemas and volcanic smoke.

5. SANTA FÉ DE BOGOTA. (Elevation, 2,645 meters.)

(Dry air, per 10,000, per volume.)

Sky.	Wind.	Temperature of air, Celsius.	1850.	Carbonic acid.	Oxygen.	Nitrogen.
		°	h. m.			
Clear	SE	18.0	Mar. 7, 11 30 a. m.	3.864	2102.099	7894.037
Cloudy	E	15.5	Apr. 12, 9 45 a. m.	3.664	2100.382	7895.954
Do	E	16.0	May 8, 11 30 a. m.	3.609	2099.032	7897.359
Do	E	16.5	May 9, 9 30 a. m.	3.824	2099.250	7896.926
Do	SE	16.5	June 15, 10 00 a. m.	4.192	2099.516	7896.302
Clear	E. SE	17.5	July 24, 11 25 a. m.	4.249	2101.765	7893.986
Cloudy	SE	17.5	Aug. 19, 11 20 a. m.	5.043	2101.411	7893.546
Clear	E. SE	17.5	Aug. 23, 11 00 a. m.	4.812	2101.826	7893.362
Cloudy	SE	16.5	Sept. 1, 9 15 a. m.	6.178	2102.434	7891.388
Clear	Calm	13.0	Sept. 2, 0 00 a. m.	7.649	2101.710	7890.651
Cloudy	E. SE	12.5	Sept. 2, 3 00 a. m.	16.291	2096.629	7887.080
Do	SE	18.5	Sept. 2, 4 10 p. m.	17.040	2103.011	7879.949
Clear	E. SE	16.5	Sept. 3, 9 00 a. m.	15.853	2101.976	7882.171
Cloudy	SE	19.0	Sept. 3, 4 30 p. m.	48.963	2103.179	7847.858
Do	SE	19.0	Sept. 3, 4 30 p. m.	49.043	2103.197	7847.760
Do	E	18.5	Sept. 4, 3 00 p. m.	13.261	2102.927	7883.812
Do	SE	16.5	Sept. 4, 5 00 p. m.	8.648	2100.355	7890.997
Do	NE	16.5	Sept. 8, 9 30 a. m.	12.829	2102.097	7885.074
Do	E. SE	19.0	Sept. 9, 4 00 p. m.	7.512	2103.082	7889.406
Clear	E. SE	19.5	Sept. 10, 1 10 p. m.	4.583	2103.199	7892.218
Cloudy	SE	17.0	Sept. 12, 10 00 a. m.	4.709	2109.689	7892.602
Do	SE	16.5	Oct. 3, 9 15 a. m.	4.751	2102.377	7892.872

It may be observed with respect to these experiments, that at the beginning of the dry season the trees are cut down for agricultural purposes, so that they may be burned just before the rainy season. These conflagrations (called "*las quemas*") last for several days; they are most extensive during the latter part of August and beginning of September, and take place also to a less extent toward the end of February and beginning of March. Volcanic craters, at a short distance from Bogota, also pour carbonic acid at intervals into the atmosphere. On September 2, 1850, the summit of Montserrat was enveloped in a dark gray vail of vapor; the air was so oppressive that many persons were affected, breathing with difficulty. On September 4 it began to rain, and by the 9th the rainy season had fairly commenced, while "*las quemas*" had ceased in the immediate and remote neighborhood of Bogota. On a former occasion, (Ann. Ch. and de Phys., ser. 3, vol. viii., p. 450,) on November 20, 1842, at Guadelupe, Lewy detected 147.6 parts of carbonic acid in 10,000 volumes of air; and on the 23d of that month 89.0 carbonic acid; while in the dense tropical vegetation of the mangrove thickets upon the river Salee—and due, no doubt, to the decomposition of carbonic acid by the action of an energetic vegetable life—the amount of this gas falls to 2.6. If these results of Lewy be correct, the great excess of carbonic acid in the atmosphere of the locality observed has its origin in volcanic emanations; and Lewy infers from his experiments that its presence is not due to a disappearance of oxygen. The air was collected in exhausted globes, and the analysis was performed by Dumas and Boussingault's process, by which the oxygen is absorbed by copper heated to redness, and the carbonic acid is obtained by absorption by caustic potassa.

The foregoing analyses give a clear view of our knowledge of the atmospheric carbonic acid. Before proceeding to the analysis of the air of inhabited apartments, I will cite an example from the air of badly-ventilated mines, in which, from the earth, from the breath and light of the miners, and from the combustion of gunpowder, the air has become deteriorated. The following results were obtained by Mr. Heywood, (Tomlinson's Rud. Treatise on Warming and Ventilation, p. 256,) from the analysis of 18 samples of air from mines in Cornwall and Devon:

Oxygen (by volume)	17.067
Nitrogen (by volume)	82.848
Carbonic acid	0.085
	100.000

In one instance he found only 14.51 oxygen, and in another as much as 0.23 carbonic acid.

Dr. R. Angus Smith, (Quar. Jour. of Science, April, 1865, p. 222,) in an essay upon the salubrity of mines, gives the following table for the percentage of oxygen in the air resulting from five or six hundred analyses:

Analyses of air varying in the amount of oxygen per cent. by volume.

Northeast seashore and open heath of Scotland	20.999
Tops of hills—Scotland	20.98
Base of hills—Scotland	20.98
Suburb of Manchester in wet weather	20.98
Front street ¾ mile from Exchange—(dry)	20.945
Back of house	20.936
Unhealthy parts of Perth, favorable—windy day	20.935
Fog and frost in Manchester	20.91
Sitting room which felt close	20.89
After six hours of a petroleum lamp	20.83
Pit of a theater	20.74
Gallery	20.36
When candles go out, from presence of carbonic acid	18.5
Difficult to remain in, from presence of carbonic acid	17.2

Summary of analyses of air in mines—oxygen.

Average in 339 specimens	20.26
Lowest	18.27
Average in large spaces	20.77
Currents	20.65
Just under shafts	20.424
In ends	20.18
In swamps	20.14
In all other places	20.32

Analyses of atmospheres varying in carbonic acid.

	Average carbonic acid, per 10,000 volumes.
Manchester streets—usual	4.03
During fogs	6.79
About middens	7.74
Average	4.42
Average fogs excepted	4.24
Average fogs and middens excepted	4.03
Where the fields begin	3.69
In close buildings	16.04
Minimum of suburbs	2.91
Over north Scotland, (towns excepted)	3.36
Candle goes out	180 to 250
Lowest found in mines	250.
Lowest entered for experiment	400.
Average of the mines	78.5

III. CARBONIC ACID IN THE AIR OF APARTMENTS.

Leblanc (Jour. Pr. Ch., xxvii, p. 215, and Comptes Rendus, Juin, 1842, p. 862) made an extensive series of analyses of the air of different inhabited apartments of Paris, comprising chambers, lecture-rooms, hospitals, &c. He determined the constituents of the air in most instances by the method of Dumas and Boussingault, but in some cases he ascertained the carbonic acid by Brunner's process. Leblanc's results are given in the original by weight; I have therefore recalculated them for volumes, using for the purpose the specific gravities of Erdmann's and Marchand's tables. I have also added a column of the relative amount of carbonic acid present, assuming four volumes in 10,000 of air as a unit of measure. It will be seen from these analyses (column of numbers 1, 2, and 3) that vegetation in greenhouses diminishes the amount of carbonic acid which is normally in the air; that in an *ordinary* sleeping apartment for two persons the ventilation from accidental causes is superior; that in such *crowded* apartments the carbonic acid is in great excess from insufficient ventilation, which is also the case for lecture-rooms, schools, and dormitories of hospitals.

I would call especial attention to the analyses of the air of the chamber of deputies and of the opera comique, both ventilated artificially with the greatest care, so that we may compare these results with those obtained in the Capitol extension.

Leblanc's results are interesting in respect to the death of animals in artificial atmospheres. Thus a small bird died in a room containing less carbonic acid than existed in the air of the majority of the apartments examined, and a dog survived longer in air containing the enormous amount of 1,991 volumes per 10,000 of carbonic acid than in an atmosphere from burning charcoal in which 301 volumes of this gas were present. The cause of the latter superior deadly effect is attributable to the presence of the very poisonous gas, carbonic oxide, emitted by the charcoal.

Table of Leblanc's analyses of the air of badly ventilated apartments.

No. of analysis.	Air collected from—	Oxygen, in 10,000 dry air, per volume.	Carbonic acid, in 10,000 dry air, per volume.	Relative carbonic acid, that of air, = 4 volumes per 10,000.	Capacity of room.	No. of individuals.	Hours that the apartment was closed.	Volume air per person while apartment was closed.	Volume air per hour and per person.	Remarks.
					Cu. met.			*Cu. met.*	*Cu. met.*	
1	Buffon's hot-house, Jardin des Plantes, (evening)..	2081. 2	.....	.....	273. 7	.....	12	.....	.....	At 6 p. m. tropical plants; insolation two-thirds of the day.
2	Buffon's hot-house, Jardin des Plantes, (morning).	2076. 7	0. 65	0. 16	.....	.....	24	.....	.....	At 6 p. m., February 10, 1842, 8 a. m., air taken the day following, I.
3	Chemical lecture-room, Sorbonne, (before lecture).	2028. 8	42. 51	10. 63	1, 000	400?	$\frac{1}{12+13}$	.....	.....	Air taken at commencement of M. Dumas's lecture.
4	Chemical lecture-room, Sorbonne, (after the lecture)	1986. 3	67. 36	16. 84	.....	900	1_{12+13}	1. 1	0. 74	Air taken at close of M. Dumas's lecture.
5	Sleeping apartment.....	2074. 9	2. 62	0. 65	81	2	8	40. 5	50.	Without chimney, air 1 meter above floor.
6	Women's room, Nôtre Dame du Rosaire.....	2072. 1	5. 89	1. 47	1, 958	54	$2\frac{1}{2}$	36. 0	4. 0	Air 9 a. m., $2\frac{1}{2}$ hours after the windows had been open for airing room.
7	Women's room, Nôtre Dame du Rosaire.....	2055.	18. 31	4. 58	.....	54	9	.....	4. 0	Air 6 a. m., $1\frac{1}{2}$ meter above floor; two stoves, fire all night.
8	Garret dormitory, Salpetrière section of incurable insane.	2036. 9	52. 32	13. 08	611. 1	55	$8\frac{1}{4}$	11. 1	1. 4	Air 0.6 meter above floor; doors and windows closed imperfectly.
9	Dormitory Salpetrière epileptics.....	2044. 1	37. 93	9. 49	2, 417	121	9	19. 9	2. 2	Doors and windows closed better.
10	Room in asylum, 2d arrondissement.....	2054.	17. 66	4. 41	230	116	3	.....	.....	Air 0.6 meter above floor; doors half opened, boys and girls from 3 to 6 years.
11	School-room, 2d arrondissement, with full draught.	2065. 8	Lost.	.....	721	180	4	.....	.....	Air $1\frac{1}{2}$ meter close floor; 1,080 cubic meters escaped hourly by the chimney; boys from 7 to 10 years of age.
12	School-room, 2d arrondissement, imperfect draught	.....	30. 74	7. 68	.....	.....	4	.....	.....	Air taken $2\frac{1}{2}$ meters above floor, and 837 cubic meters air escaped hourly by the chimney.
13	School-room, 2d arrondissement, imperfectly closed.	.....	56. 90	14. 22	.....	.....	4	3 1	0. 77	All openings closed; temperature inside, 180°; temperature outside, 16°; respiration accelerated.
14	Chamber of deputies, inside of the entering air flue.	.....	16. 35	4. 09	5, 000	600	$2\frac{1}{2}$	.....	.....	11,000 cubic meters air passed through the chimney hourly.
15	Opera comique, parterre	.....	15. 04	3. 76	.....	1, 000	$2\frac{1}{2}$	.....	.....	Air taken 1 meter above floor; 80,000 cubic meters passed through the chimney hourly.
16	Opera comique, ceiling.....	.....	23. 12	7. 03	.....	.....	$2\frac{1}{2}$	.....	.....	Air taken at ceiling near flue conducting air to chandelier.
17	A close stable in the military school	2012. 5	6. 87	1. 72	339. 5	9 horses	$7\frac{3}{4}$	37. 7	4. 7	Air taken 2 meters above floor.
18	Another stable in the military school with the ventilator open.	2073. 1	14. 39	3. 60	2, 980	57 hor's	8	52. 2	6. 5	Natural draught through a ventilator.

Artificial atmosphere.

Remarks.	Relative carbonic acid compared with air containing 4 volumes per 10,000.	Carbonic acid, per 10,000.		Oxygen, per 10,000.		Nitrogen, per 10,000, per weight.	Carbonic oxide, per 10,000, per weight.	Hydrogen, per 10,000, per weight.
		Weight.	Volume.	Weight.	Volume.			
Suffocating air from burning charcoal*	75.37	461	301.5	1919	1735.7	7562	54	4
Suffocating air from burning charcoal†	5.07	31	20.3	.....	.....	.....	.....	.....
Suffocating air with pure carbonic acid‡	497.7	3044	1990.7	1600	1447.2	.....	.....	.....

* Air collected ten minutes after the death of a dog placed therein, and on the instant of the extinction of a candle.
† Air deadly for a bullfinch; flame of a candle unchanged.
‡ Air collected at the moment of the death of a dog placed therein.

Raymond de Luna (Jahresbericht, xiii, 107, estudios quimicos sobre el aire atmosferico de Madrid, 1860) has made an investigation, containing the following results of experiments upon the air of Madrid:

Raymond de Luna's analyses.

Locality.	Carbonic acid, per 10,000 volumes of air.	Relative carbonic acid.
Princess' hospital, Madrid	30.00	5.8
General hospital, Madrid	43.00	8.3
Within the walls of the city of Madrid	5.17	1.0
Without the walls of the city of Madrid	4.50	
Air of a bedroom on rising in the morning	48.00	9.2
After ventilating the same for two hours	16.00	3.0

Pettenkoffer, (Abhandlung Bayr. Acad. der Wissenschaften II, pp. 1, 19, 69; also in Jour. Pr. Ch. lxxxv, 165,) in an extensive series of experiments performed according to his method of analysis for determining carbonic acid, obtained the results contained in the following table.

It will be observed that the air of ordinary and not crowded rooms is not deficient in ventilation, which takes place through the *walls* and crevices; (see ex. 12, 13, &c;) that there are differences in degrees for the ventilation of such rooms, and when they have from 5 to 9 per 10,000 per volume of carbonic acid, which is equal to 1.1—2.0 relative carbonic acid, they are free from any closeness to the senses.

Crowded rooms, lecture and school rooms, provided with no artificial ventilation, have an accumulation of carbonic acid to a dangerous degree.

Experiments 17–20 show the escape of carbonic acid by diffusion through the walls and crevices.

Table of Pettenkoffer's analyses of the air of rooms.

No. of analysis.	Remarks.	Carbonic acid in 10,000 volumes.	Relative carbonic acid, 4.5 = 1.0.
1	External air, Innsbruck, Pettenkoffer's method	4.52	1.0
2	External air, Innsbruck, Gilm's method	4.09	.....
3	Air of dwelling-room, Pettenkoffer's method	7.40	1.645
4	Air of dwelling-room, Gilm's method	7.41	.....
5	Air of dwelling-room, Pettenkoffer s method	6.11	1.358
6	Air of dwelling-room, Gilm's method	6.33	1.407
7	External air at Munich	4.5	1.0
8	Air from dwelling-room, Munich	6.0	1.333
9	Air from badly ventilated workshop	19.7	4.378
10	Air from very full room 14 feet high—at floor	22.4	4.978
11	Air from very full room 14 feet high—at ceiling	26.6	5.911
12	Air from room free from any closeness	5.0	1.111
13	Air from room free from any closeness	9.0	2.000
14	Air from very full lecture-room	32.0	7.111
15	Air from Munich beer saloon	49.0	10.890
16	Air from a well-filled school-room	72.0	16.000
17	Air from well-closed room, filled with fumes of burning charcoal	141.0	31.340
18	Air from well-closed room an hour later	51.0	11.330
19	Air from well-closed room an hour later	22.0	4.889
20	Air from well-closed room an hour later	*12.0	2.667

* Diffusion through the solid walls and crevices.

Dr. Hammond (Hygiene with reference to the military service) gives the following results of his examination of the air of the army hospitals:

Table of analyses of air of army hospitals.

Remarks.	Carbonic acid, per 10,000 volumes of air.	Relative carbonic acid.
External air	3.7	1.0
Air in the hospitals of best ventilation	6.8	1.8
Air in the hospitals of worst ventilation	21.1	5.7
Air in a bedroom on rising	9.5	2.6
Air of a bedroom after ventilating for three hours	4.3	1.2

Peclet (Nouveaux Documents Relatifs au Chauffage et à la Ventilation, Paris, 1853) gives the following results of experiments by Leblanc upon the condition of, I, a ventilated cell in the prison Mazas; II, of a similar cell not ventilated.

The experiments were performed by the action of a committee comprising Arago, Gay Lussac, Pouillet, Dumas, Boussingault, Andral, Péclet, Leblanc, and others.

In cell No. I a ventilation of six cubic meters of air per hour was insufficient to remove the odor extending into the cell from the siége d'aisance; but ten cubic meters were effectual for the purpose. The experimentor was confined in the cell during ten hours with a candle, which was lighted during 2½ hours after closing the doors. The ventilation No. I was at the rate of 10 cubic meters per hour, except for the first two hours, when it was somewhat less. During the first few hours the experimentor experienced a slight feeling of disgust in consequence of the insufficient ventilation, but this passed away completely.

Table of Leblanc's experiments on the ventilation of the prison Mazas.

Locality.	Carbonic acid, per 10,000 volumes.	Relative carbonic acid. Unity = 5.0 per 10,000.	Relative humidity.	Remarks.
I. A ventilated cell.....	21.58	4.32	80	External air relative $h = 75.0$
II. Cell not ventilated.....	65.40	13.08	....	

Lassaigne (l'Institut, No. 654, July 15, 1846, p. 240, and Jour. Pr. Ch., xlvi, p. 287) performed some experiments upon the composition of the air in unventilated places which had served for the respiration of men and horses. The determination was effected by absorption by caustic potassa. In the first two experiments the air was taken after a lecture which had lasted two hours; all the crevices of the apartment having been closed as effectually as possible. As may be perceived, the amount of carbonic acid present is enormous, being, as in the case of a cell in the prison Mazas, as much as four times the normal quantity contained in the atmosphere.

Table of Lassaigne's experiments upon unventilated rooms.

Experiment.	Locality.	Capacity, cubic meters.	Individuals present.	Remarks.	Carbonic acid, per 10,000 volumes of air.	Relative carbonic acid. The air of Paris = 5 = 1,00.
1	Lecture-room ceiling.	280	52	No ventilation	62	12.4
1	Lecture-room floor ...	280	52	.....do.....	55	11.0
2	Lecture-room ceiling.	280	52	.....do.....	49	9.8
2	Lecture-room floor ...	280	52	.....do.....	43	8.7
3	Stable.....	78	2 horses .	.....do.....	52	10.4
3	Stable.....	78	2 horses .	.....do.....	55	11.0
4	Stable.....	.....	8 horses .	Closed exp't after 45′...	32	6.4

Loppens (l'Institut, 1845, p. 26) obtained the following results in the air of a theater at Ghent. These experiments, like those of Lassaigne and others, establish the fact that the carbonic acid of an unventilated room is uniformly diffused therein, the slight difference being in favor of the ceiling, and not of the floor, as was formerly ignorantly assumed from the superior specific weight of this gas:

Table of Loppens's experiments on a theater.

Air of the theater at Ghent.	Carbonic acid, per volume, per 10,000.		Relative carbonic acid, that of air = 5 = 1.	
	Minimum.	Maximum.	Minimum.	Maximum.
From the parterre	26.7	46.3	5.3	9.3
From above the galleries.....	43.9	53.6	8.8	10.7

Roscoe (Qr. Jour. Ch. Soc., x, 251) obtained the following interesting results of an "investigation for the purpose of supplying chemical data respecting the warming

and ventilation of private dwelling-houses, including barracks, under a commission appointed for that purpose by the general board of health" in London. Roscoe assumes that the following are the conditions of the deterioration of air in such localities:

1. The presence of an excessive quantity of carbonic acid or of other gases.
2. Too much or too little moisture.
3. The presence of organic putrescent bodies, the effluvia arising from the decomposition of animal or vegetable matter.
4. Inconvenient elevation of temperature.

Roscoe assumes the proportion of carbonic acid in a room which has served for respiration to be the measure of the deterioration arising from the breath, with respect both to the carbonic acid and to the putrescent matters exhaled.

The following table comprises Roscoe's results. The experiments were performed by aspirating a known volume of air, absorbing the moisture by *sulphuric acid*, and the carbonic acid by *caustic potassa*, both contained in tubes filled with fragments of pumice-stone:

Table of Roscoe's experiments upon ventilation.

Number of experiments.	Locality.	Cubic feet in the inclosed space.	Number of persons present.	Cubic feet per head per hour.	Relative humidity.	Carbonic acid per 10,000 per volume.	Relative carbonic acid.	Deviation from mean.	Remarks.
III.....	In London, Feb. 27, '57	.....	.....	.....	65.5	3.7	1.0	.....	Windy day.
IV.....	No. 16, Wellington barracks.	7,920	16	13.3	66.2	12.42	3.4	.....	Ventilation shut off.
V.....	.....do	7,920	16	13 0	59.5	11.89	3.2	.....	
VI.....	.....do	7,920	16	.....	65.0	14.18	3.8	.....	
VII....	Large day-school for boys.	22,140	164	6	75.0	23.71	6.4	.....	Accid'l ventilation.
VIII..	Another day-school for boys.	4,640	67	4	74.0	31.9	8.6	.....	
IX*a*...	Small unventilated family dwelling.	940	9	.....	.....	12.13	3.3	+0.31	6 in. below ceiling.
IX*b*....	.....do	940	9	.....	.....	12.76	3.4	.....	2½ ft. above floor.
X*a*....	A school-room, same as VIII.	4,640	70	.....	.....	33.05	8.9	−0.16	6 in. below ceiling.
X*b*.....	.....do	4,640	70	.....	.....	32.53	8.8	.....	3 ft. above floor.
XI*a*....	.....do	4,640	70	.....	.....	23.90	6.5	+0.34	6 in. below ceiling.
XI*b*....	.....do	4,640	70	.....	.....	24.59	6.6	.....	2⅓ ft. above floor.
XII*a*..	The same as VII	22,140	160	.....	.....	26.96	7.3	+1.26	6 in. below ceiling.
XII*b*...	.....do	22,140	160	.....	.....	29.49	8.0	.....	3 ft. above floor.
XIII*a*..	The same as IV.....	7,920	20	.....	.....	13.82	3.7	+2.87	Arnold's ventilation.
XIII*b*..	.....do	7,920	20	.....	.....	16.84	4.6	.....	*a* 3 in. below ceiling. *b* 2½ ft. above floor.
XIV*a*..	Theater	(*)	(†)	.....	.....	26.37	7.1	.....	4 ft. above parterre.
XIV*b*..	.....do	(*)	(†)	.....	.....	32.12	8.7	.....	34 ft. above parterre, opposite gallery.

* Not determined. † Moderately full.

Roscoe also performed experiments upon the escape of carbonic acid through the crevices of a room, and by diffusion through its walls. The results accord with those obtained independently by Pettenkoffer, and demonstrate that a large amount of carbonic acid escapes from an unventilated room in this way. In experiment I, carbonic acid was evolved in a room containing two persons. The flue was closed and was without fire. All the doors (four) and windows (two) were shut. The capacity of the room was 2,560 cubic feet. The following are the results:

Experiment I.

Carbonic acid determined at consecutive half hours gave—	At 0h. 0m.	At 0h. 30m.	At 1h. 0m.	At 1h. 30m.
Volume of carbonic acid per 10,000 volumes of air.....	72.07	33.10	30.99	30.99

It is thus seen that the carbonic acid diminishes in half an hour from 0.7 to 0.3 per cent. of the total volume of air, although the direct ventilation was checked. Roscoe supposes that the permanency of 3 per cent. carbonic acid after the first half hour is due to the respiration of the two persons in the confined atmosphere.

Experiment II was instituted for the pupose of ascertaining the diffusion of carbonic acid through brick and mortar walls. For this purpose a brick was cemented with pitch into the end of a box lined with pitch, and of the dimensions 3 feet by 9 inches by 4½ inches. Carbonic acid was led into the box by two tubes cemented into the sides. After the box had stood for sufficient time to permit a uniform mixture of the gases, samples were taken in consecutive hours, collected in a tube over mercury, and the proportion of carbonic acid in the air determined. In order to control errors arising from a leakage of the box, another experiment was performed, in which the whole brick was covered with pitch and the leakage thus determined.

Experiment II.

Carbonic acid determined at consecutive hours.	At 0h.	At 1h.	At 2h.	LOSS OF CARBONIC ACID BY DIFFERENCE IN PER CENTS.		
	1.	2.	3.	In 1st hour.	In 2d hour.	Total in 2 hours.
Samples.....	16.96	14.22	12.17	2.74	2.05	4.79

The experiment with a brick pitched all over showed a loss by leakage in two hours of 1.54 per cent. of carbonic acid. Hence the amount of carbonic acid which diffused through the naked brick in two hours = 4.79 — 1.54 = 3.25, or a total of 16 per cent. of carbonic acid. In other words, when an inclosed space contained 16 per cent. of carbonic acid, three and a quarter per cent. escaped through a solid brick in two hours.

II.—ANALYSES AND OBSERVATIONS AT THE CAPITOL.

GENERAL DATA AND RESULTS.

The following table comprises the data obtained and the results which have been deduced from my experiments upon the ventilation of the Capitol extension. The first and second columns contain the places of observation and the consecutive order of experiments, and columns 3 and 4 their dates and hours. Columns 5, 6, 7, 12, and 13 give the data for calculating the volume of carbonic acid contained in 10,000 volumes of air. These data are not given for the experiments of June 30, 1864, on account of the imperfection of the apparatus employed at that date. I regard these experiments as approximately correct, but without the confidence attaching to those performed in the present year. Columns 9 and 10 contain the data for computing 11, the relative humidities of the air, in which 100 is taken as the point of saturation with moisture of air of the respective temperatures. The inferences to be drawn from the experiments upon moisture are deferred to a subsequent page.

Let us consider, in the present connection, columns 14, 15, and 16, which concern the proportion found for the carbonic acid of the air in the apartments in question, and a comparison of the quantity of this gas with that already existing in the external atmosphere.

Table of data and results of the determination of the carbonic acid and relative humidity of the air in connection with the ventilation of the Capitol extension.

WETHERILL.

No. of analysis.	Place of observation.	Date.	Time.	Quantity of air taken.	Temperature of air vessel, C°.	Barometer, millimeters, at 0° C.	Temperature of air, Fahr.°.	Temp. of air, C°.		Relative humidity.	C. C. of oxalic solution.		Carb. acid per 10,000 per vol.		Relative carbonic acid.	Remarks.
								Wet bulb.	Dry bulb.		Before carb. acid.	After carb. acid.	Experiments.	Mean.		
		1864.	*h. m.*		°		°	°	°							
1	Smithsonian laboratory	June 27	M.	....	.....	762.6	90.5	24	32.5	47	.....	.....	.....	.....	.....	After very dry spell, with breeze from the north, and storm approaching.
2	Capitol, northeast portico	June 27	2.00 p. m.	....	.....	759.9	86.9	23	30.5	51	.....	.....	.....	.....	.....	
3	Senate, southeast corner, over ventilator.	June 27	2.15 p. m.	....	.....	759.4	86	22.5	30	50	.....	.....	.....	.....	.....	Storm began.
4	Senate, opposite chair	June 27	2.30 p. m	....	.....	759.4	82.4	25	28	77	.....	.....	.....	.....	.....	Hard rain; wind blowing in the doors.
5	Senate, ladies' gallery, southeast corner.	June 27	2.45 p. m.	....	.....	759.4	84.2	23	29	58	.....	.....	.....	.....	.....	Storm ceasing.
6	Senate, Sergeant-at-arms' office	June 28	11.50 a. m.	....	.....	769.3	74.3	15	23.5	35	.....	.....	.....	.....	.....	
7	Senate, southeast corner, over ventilator.	June 28	M.	....	.....	769.3	77	16	25	34	.....	.....	.....	.....	.....	
8	Senate, opposite chair	June 28	12.15 p. m	....	.....	769.3	77	16	25	34	.....	.....	.....	.....	.....	
9	Senate, ladies' gallery, southeast corner.	June 28	12.45 p. m	....	.....	769.3	77.9	16	25.5	32	.....	.....	.....	.....	.....	
10	Smithsonian laboratory	June 28	2.00 p. m	....	.....	770.9	77.9	16	25.5	32	.....	.....	.....	.....	.....	
11	Smithsonian laboratory	June 29	4.00 p. m	....	.....	774.6	78.8	16	26	30	.....	.....	.....	.....	.....	
12	Senate, southeast corner ventilator	June 29	4.35 p. m	....	.....	774.5	77.9	16.5	25.5	34	.....	.....	.....	.....	.....	
13	Senate, opposite chair	June 29	4.35 p. m	....	.....	774.5	78.8	17	26	36	.....	.....	.....	.....	.....	
14	Senate, ladies' gallery, southeast corner.	June 29	4.45 p. m.	....	.....	774.5	78.8	17	26	36	.....	.....	.....	.....	.....	Galleries nearly empty.
15	Capitol, northeast portico	June 29	4.45 p. m	....	.....	774.5	78.8	16	26	30	.....	.....	.....	.....	.....	
16	Smithsonian laboratory	June 30	10.45 a. m	....	.....	765.9	77.0	19	25	54	.....	.....	.....	.....	.....	
17	Capitol, main portico	June 30	2.05 p. m	....	.....	763.4	78.8	19	26	48	.....	.....	3.345	.....	.....	Breeze; storm approaching.
18	Capitol, main portico, second experiment.	June 30	2.05 p. m	....	.....	763.4	78.8	19	26	48	.....	.....	3.172	3.258	1	
19	House of Representatives,* northwest corner.	June 30	2.20 p. m	....	.....	762.9	78.8	21	26	62	.....	.....	6.793	.....	.....	Storm begun.
20	House of Representatives, second experiment.	June 30	2.20 p. m	....	.....	762.9	78.8	21	26	62	.....	.....	4.185	5.489	1.7	*Capacity House of Representatives, 465,372 cub. ft.
21	House gallery, behind clock	June 30	2.45 p. m	....	.....	762.9	78.8	21	26	62	.....	.....	4.902	.....	.....	Raining gently.
22	House gallery, second experiment	June 30	2.45 p. m	....	.....	762.9	78.8	21	26	62	.....	.....	4.147	4.525	1.4	The values for carbonic acid are approximate.

Table of data and results of the determination of the carbonic acid and relative humidity of the air, &c.—Continued.

No. of analysis.	Place of observation.	Date.	Time.	Quantity of air taken.	Temperature of air vessel, C°.	Barometer, millimeters, at 0° C.	Temperature of air, Fahr.°	Temp. of air, C°.		Relative humidity.	C. C. of oxalic solution.		Carb. acid per 10,000 per vol.		Relative carbonic acid.	Remarks.
								Wet-bulb.	Dry-bulb.		Before carb. acid.	After carb. acid.	Experiments.	Mean.		
		1864.	*h. m.*		°		°	°	°							
23	Smithsonian laboratory	July 2	1. 15 p. m	....	.....	759. 8	88. 2	23. 7	31. 2	51	.....	.....	.....	.....	.....	Before a storm.
24	Smithsonian laboratory	July 2	2. 00 p. m	....	.....	760. 7	78. 8	23. 5	26	80	.....	.....	.....	.....	.....	After the storm.
25	Capitol, northeast portico	July 2	3. 00 p. m	....	.....	760. 7	84. 2	25	29	71	.....	.....	.....	.....	.....	
26	Senate,** over southeast corner ventilator.	July 2	3. 15 p. m	....	.....	760. 7	82. 4	24. 5	28	74	.....	.....	.....	.....	.....	Very pleasant air in the Senate after the storm.
27	Senate, six feet from ventilator	July 2	3. 20 p. m	....	.....	760. 7	84. 2	25	29	71	.....	.....	.....	.....	.....	
28	Senate, opposite chair	July 2	3. 25 p. m	....	.....	760. 7	84. 2	25	29	71	.....	.....	.....	.....	.....	
29	Senate, over opposite ventilator	July 2	3. 28 p. m	....	.....	760. 7	82. 4	24. 5	28	71	.....	.....	.....	.....	.....	
30	Senate, six feet from ventilator	July 2	3. 30 p. m	....	.....	760. 7	84. 2	25	29	71	.....	.....	.....	.....	.....	
31	Senate, northwest corner	July 2	3. 40 p. m	....	.....	760. 7	84. 6	25	29. 2	71	.....	.....	.....	.....	.....	
32	Senate, over side ventilator	July 2	3. 50 p. m	....	.....	760. 7	82. 4	24. 5	28	74	.....	.....	.....	.....	.....	
33	Senate, ladies' gallery, southeast corner.	July 2	4. 00 p. m	....	.....	760. 7	84. 2	24. 5	29	68	.....	.....	.....	.....	.....	
34	Senate, stairs to gallery, opposite ventilator.	July 2	4. 25 p. m	....	.....	760. 7	80. 6	23. 5	27	74	.....	.....	.....	.....	.....	
		1865.														
35	Senate, post office, near a closed window.	Jan. 24	12. 15 p. m	....	.....	Not taken	61. 9	11	16. 6	46	.....	.....	.....	.....	.....	Fair weather.
36	Senate, post office, on mantelpiece	Jan. 24	12. 15 p. m	....	.....	...do	70. 2	12. 8	21. 2	32	.....	.....	.....	.....	.....	
37	Senate, post office, on mantelpiece	Jan. 24	12. 30 p. m	....	.....	...do	70. 9	13	21. 6	31	.....	.....	.....	.....	.....	
38	Senate, post office, on mantelpiece	Jan. 24	1. 55 p. m	....	.....	...do	70. 5	13. 1	21. 4	33	.....	.....	.....	.....	.....	
39	Senate, ladies' gallery, near reporters' gallery.	Jan. 24	2. 15 p. m	....	.....	...do	72. 0	12. 8	22. 2	27	.....	.....	.....	.....	.....	
40	Senate, ladies' gallery, near diplomatic gallery.	Jan. 24	2. 40 p. m	....	.....	...do	72. 3	13	22. 4	27	.....	.....	.....	.....	.....	Fire at Smithsonian Institution interrupted the experiment.
41	Senate, air entering fan	Jan. 24	3. 00 p. m	....	.....	...do	29. 8	− 3. 8	− 1. 2	56	.....	.....	.....	.....	.....	
42	Senate, external air, north portico	Jan. 24	12. 45 p. m	....	.....	...do	31. 3	− 2. 8	− 0. 4	58	.....	.....	.....	.....	.....	
43	Smithsonian Institution, external air	Feb. 8	10. 30 a. m	A	4	753. 3	33. 8	− 1	+ 1	65	37. 5	34. 6	2. 722	.....	.....	Clear, with gentle breeze.
44	Smithsonian Institution, external air	Feb. 8	10. 30 a. m	B	4	753. 3	33. 8	− 1	+ 1	65	37. 5	34. 8	2. 685	.....	.....	
45	Smithsonian Institution, external air	Feb. 8	10. 30 a. m	C	4	753. 3	33. 8	− 1	+ 1	65	37. 5	34. 7	2. 719	2. 709	1	
46	Senate, air entering fan	Feb. 9	2. 30 p. m	A	4	759. 0	30. 6	− 3	− 0. 6	55	37. 5	34. 6	2. 700	.....	.....	Clouded and windy.
47	Senate, air entering fan, second experiment.	Feb. 9	2. 30 p. m	B	3. 5	759. 0	30. 6	− 3	− 0. 6	55	37. 5	34. 8	2. 659	.....	.....	
48	Senate, air entering fan, third experiment.	Feb. 9	2. 30 p. m	C	2. 5	759. 0	30. 6	− 3	− 0. 6	55	37. 5	34. 8	2. 587	2. 649	1	

49	Senate, level desks, southeast corner.	Feb. 9	3.30 p. m.	*a*	20	757.7	70.9	11.4	21.6	20	37.5	35.0	5.491	.....	.....	Fan forty-five revolutions per minute.
50	Senate, level desks, second experiment.	Feb. 9	3.30 p. m.	*b*	20	757.7	70.9	11.4	21.6	20	37.5	35.2	5.979	5.735	2.2	
51	Senate, diplomatic gallery.....	Feb. 9	4.00 p. m.	*c*	20	756.5	68	11.8	22.0	21	37.5	36.0	3.871	.....	.....	Galleries not full.
52	Senate, diplomatic gallery, second experiment.	Feb. 9	4.00 p. m.	*d*	20	756.5	68	11.8	22.0	21	37.5	35.8	4.085	3.978	1.5	
53	Senate, illuminating loft, northwest corner, over ventilator.	Feb. 9	4.30 p. m.	*e*	20	756.1	64	9.8	17.8	27	37.5	35.5	4.733	.....	.....	
54	Senate, illuminating loft, northwest corner, over ventilator, second experiment.	Feb. 9	4.30 p. m.	*f*	20	756.1	64	9.8	17.8	27	37.5	35.7	4.443	4.588	1.7	
55	Smithsonian Institution, dining-room of the Secretary.	Feb. 15	2.10 p. m.	*g*	21	758.7	69.8	14.4	21	44	37.5	35.8	4.340	.....	1.6	Rain. Relative humidity, with open windows, =69.
56	House of Representatives, air entering fan.	Feb. 16	3.30 p. m.	A	5	753.0	35.2	1.7	1.8	100	37.5	34.7	2.637	.....	.....	Raining; fine mist.
57	House of Representatives, air entering fan, second experiment.	Feb. 16	3.30 p. m.	B	4	753	35.2	1.7	1.8	100	37.5	34.7	2.785	2.711	1	Galleries not full.
58	House of Representatives, level of desks, northwest corner.	Feb. 16	3.40 p. m.	*a*	23	753.4	72.7	14.4	22.6	46½	37.5	35.6	3.495	.....	.....	Average audience.
59	House of Representatives, level of desks, northwest corner, second experiment.	Feb. 16	3.40 p. m.	*b*	23	753.4	72.7	14.4	22.6	46½	37.5	35.8	3.608	3.552	1.3	Fan forty-five revolutions per minute.
60	House of Representatives, diplomatic gallery.	Feb. 16	4.00 p. m.	*c*	22	753.4	70.9	13.6	21.6	46½	37.5	36.0	3.913	.....	.....	
61	House of Representatives, diplomatic gallery, second experiment.	Feb. 16	4.00 p. m.	*d*	22	753.4	70.9	13.6	21.6	46½	37.5	36.2	3.157	3.535	1.3	
62	House of Representatives, illuminating loft, northeast corner.	Feb. 16	4.30 p. m.	*e*	22	751.4	68.4	12.8	22	48	37.5	35.8	4.065	.....	.....	
63	House of Representatives, illuminating loft, second experiment.	Feb. 16	4.30 p. m.	*f*	22	751.4	68.4	12.8	22	48	37.5	36.0	3.751	3.908	1.4	
64	Dwelling, 311 F street, bedroom, second story, front.	Feb. 17	5.15 p. m.	*a*	20	753.3	65.2	13.2	18.4	57	37.2	36.0	2.650	.....	1	Relative humidity of external air=70.
65	Dwelling, 311 F street, bedroom, second story, front.	Feb. 18	8.00 a. m.	*b*	20	759.2	68.4	14.0	20.2	46	37.2	35.2	5.189	.....	2.0	Relative humidity of the external air = 80.
66	Senate, air entering fan.....	Feb. 24	10.00 p. m.	A	5	771.6	37.4	0.6	3.0	67	37.9	35.2	2.360	.....	.....	Fan making forty-five revolutions per minute.
67	Senate, air entering fan, second experiment.	Feb. 24	10.00 p. m.	B	5	771.6	37.4	0.6	3.0	67	37.9	35.0	2.825	.....	.....	
68	Senate, air entering fan, third experiment.	Feb. 24	10.00 p. m	C	5	771.6	37.4	0.6	3.0	67	37.9	35.0	2.758	2.648	1	Clear weather, and cold.
69	Senate, level of desks, southeast corner.	Feb. 24	8.30 p. m	*a*	17	770.5	66.9	11.4	19.4	31	37.9	35.9	4.275	.....	.....	
70	Senate, level of desks, second experiment.	Feb. 24	.....	*b*	19	770.5	66.9	11.4	19.4	31	37.9	36.0	4.839	4.557	1.7	
71	Senate, reporters' gallery	Feb. 24	9.00 p. m	*c*	20	770.5	70.9	12.6	21.6	28	37.9	36.0	4.814	.....	1.8	Galleries crowded.
72	Senate, illuminating loft, near ventilator.	Feb. 24	9.30 p. m	*e*	23	768.9	72.3	13.2	22.4	28½	37.9	34.8	7.269	.....	.....	Effect of gas-burners in the illuminating loft.
73	Senate, illuminating loft, near ventilator, second experiment.	Feb. 24	9.30 p. m.	*f*	23	768.9	72.3	13.2	22.4	28½	37.9	34.9	7.355	7.312	2.8	

Table of data and results of the determination of the carbonic acid and relative humidity of the air, &c.—Continued.

No. of analysis.	Place of observation.	Date.	Time.	Quantity of air taken.	Temperature of air vessel, C°.	Barometer, millimeters, at 0° C.	Temperature of air, Fahr.°	Temp. of air. C°.		Relative humidity.	C. C. of oxalic solution.		Carb. acid per 10,000 per vol.		Relative carbonic acid.	Remarks.
								Wet-bulb.	Dry-bulb.		Before carb. acid.	After carb. acid	Experiments.	Mean.		
		1865.	*h. m.*		°		°	°	°							
74	House of Representatives, air entering fan.	Feb. 25	3.30 p. m.	....	.....	Not taken	36.7	2.2	2.6	93	.....	.....	.....	.....	.....	Fan thirty revolutions per minute; fine drizzling rain; air passing over 60 square feet of water heated and placed in the air-duct.
75	House of Representatives, southwest corner, outer circle of desks.	Feb. 25	4.00 p. m	....	.....	...do	69.4	14	20.8	43	.....	.....	.....	.....	.....	
76	House of Representatives, center circle of desks.	Feb. 25	4.00 p. m	....	.....	...do	69.4	14	20.8	43	.....	.....	.....	.....	.....	
77	House of Representatives, Hon. Mr. Baily's desk.	Feb. 25	4.30 p. m.	....	.....	...do	69.8	14	21	41	.....	.....	.....	.....	.....	
78	House of Representatives, southeast corner, outer circle of desks.	Feb. 25	4.30 p. m.	....	.....	...do	69.8	14	21	41	.....	.....	.....	.....	.....	
79	House of Representatives, air entering fan.	Feb. 27	3.35 p. m.	....	.....	...do	51.4	6.6	10.8	49	.....	.....	.....	.....	.....	Very fine day; air passing over the above surface of water, which is not heated.
80	House of Representatives, southwest corner, (as above.)	Feb. 27	3.40 p. m.	....	.....	...do	71.6	14.2	22	37	.....	.....	.....	.....	.....	
81	House of Representatives, center, (as above.)	Feb. 27	3.40 p. m	....	.....	...do	71.6	14	22	35	.....	.....	.....	.....	.....	
82	House of Representatives, Hon. Mr. Baily's desk.	Feb. 27	3.40 p. m.	....	.....	...do	71.6	14	22	35	.....	.....	.....	.....	.....	
83	House of Representatives, southeast corner, (as above.)	Feb. 27	3.40 p. m	....	.....	...do	71.6	14	22	35	.....	.....	.....	.....	.....	
84	Dome, top of balustrade of tholus...	Mar.	2.00 p. m	A	23.2	760	64.2	10.7	17.9	34	37.2	34.4	2.801	.....	.....	Wind from southeast, from which quarter the air was taken; weather fine, but atmosphere hazy; 219 feet 2½ inches below upper station.
85	Dome, top of balustrade, second experiment.	Mar.	2.15 p. m	B	23.6	760	64.2	10.7	17.9	34	37.2	34.5	2.901	2.851	1.06	
86	Capitol, first platform steps, main east portico, 4 feet 4⅝ inches above ground.	Mar.	2.40 p. m	C	21.6	766.5	65	11.1	18.3	35	37.2	34.6	2.686	.....	1.00	
87	Secondary public school, Miss Mills.	Mar. 31	1.30 p. m	*a*	19.2	745.8	68	15.6	20	60	37.6	33.4	9.342	.....	*3.48	Rainy day; three schools for girls, 6 to 15 years, in one room, corner Pennsylvania avenue and Nineteenth street, air taken in the center of each school at level of desks; attendance, 139 girls and 3 teachers.
88	Primary public school, Miss Robinson.	Mar. 31	1.45 p. m	*b*	20.4	745.8	68	15.6	20	60	37.6	33.6	10.574	.....	3.94	
89	Primary public school, Miss Hubbard.	Mar. 31	1.50 p. m	*c*	21	745.8	68	15.6	20	60	37.6	34	9.454	.....	3.52	

90	Public school, male intermediate, first division. Mrs. Rodier, air from teacher's desk.	Mar. 31	2.15 p. m.	*d*	22.2	745.8	74	18.9	23.3	63	37.6	30.6	17.184	.....	6.40	Twentieth street, near I; 46 boys, from 8 to 15 years, with teachers. Relative humidity of external air 72; temperature 59°.
91	Public school, air from north side of room.	Mar. 31	2.20 p. m.	*e*	22.8	745.8	75	18.9	23.9	60	37.6	32.3	12.803	.....	4.77	
92	Public school, air from south side of room.	Mar. 31	2.30 p. m.	*f*	24	745.8	75	16.7	23.9	44	37.6	32.6	12.680	.....	4.72	

[a] Carbonic acid 2.686 = 1.

A discussion of the inferences to be drawn from the results of the experiments upon carbonic acid embraced in the preceding table will be facilitated by considering them in the following groups:

1. OF THE EXTERNAL AIR.

The close agreement between two analyses of the same air, performed simultaneously, demonstrates the accuracy of the results, and repays the labor incurred in the careful preparation of the tests and apparatus employed in the investigation. Collecting the means of all of the analyses of the external air, we have the following group:

Carbonic acid per volume in 10,000 *of external air. Mean results.*

	Carbonic acid.
1864—June 30	3.258
1865—February 8	2.709
1865—February 9	2.649
1865—February 16	2.711
1865—February 24	2 648
1865—March 28	2.686
Mean from February 8	2.68
Difference from mean	0.031

From which it is seen that the mean volume of carbonic acid per 10,000 at Washington, in the winter, was 2.68, and in the summer, on June 30, 3.26. While not desiring to assign to the analysis of June 30 too great weight, it may be remarked that it was performed upon air collected during a breeze, immediately before a storm, and that it has been shown that under such circumstances the lower strata of air are enriched by the larger proportion of carbonic acid contained in the upper regions.

The small amount of carbonic acid obtained by the analyses is remarkable. The care bestowed upon the experiments and the accordance of the results precludes the supposition of error. If an error exists, it must be always present, and varying in an exact proportion to the carbonic acid; but the method of analysis has been tested by Pettenkoffer and Gilm in a series of comparative experiments with satisfactory results.

The following summary shows the proportion of carbonic acid in the atmosphere obtained by other observers:

Carbonic acid in the atmosphere, per volume, per 10,000.

Observer.	Carbonic acid.	Remarks.
De Saussure	5.74	Maximum }
Do	3.15	Minimum } of 104 analyses.
Do	4.15	Mean }
Gilm	4.6	Maximum }
Do	3.8	Minimum } of 19 analyses.
Do	4.15	Mean }
R. Angus Smith	2.2	Hills near Preston.
Do	3.0	At Blackpool.
Marchand	3.1	Mean of 104 analyses.
Mène	2.3 (?)	Mean of 12 analyses.

Four ten-thousandths is the mean proportion of carbonic acid in the atmosphere accepted universally for all seasons and other conditions. From this average there are variations for different conditions. Whether the small amount found for Washington be due to the locality, or be general in the United States, (as is most probable,) I cannot determine, not having been able to discover records of any analyses bearing upon the question. It is probable that Europe, from the greater density of its population, and from the comparative poverty in forest, contains a larger proportion of carbonic acid in the atmosphere than does our country. A research on this subject is much needed. The experiments of Lewy, in South America, throw no light upon the matter, as they exhibit great and sudden changes in the carbonic acid of the air, due to

volcanic action. In the dense tropical vegetation of that country, Lewy found in the groves a considerable diminution of carbonic acid.

Le Blanc also found in the air of the hot-houses of the Jardin des Plantes from 0.9 to 0.6 carbonic acid per 10,000 of air.

2. AIR OF THE HALLS OF CONGRESS.

The mean results of the several analyses may be regarded as very correct. The agreement of the numbers obtained in the analysis of two specimens of the same air is very close—more so, indeed, than was expected from the presence in the neighborhood of the apparatus of persons who took naturally a great interest in the proceedings, and whose movements would tend to the production of currents which might influence the results of the analysis.

The experiments were performed upon air collected at different points and elevations. The air on the floor was compared with that in the galleries, and with that escaping from the ventilators in the illuminating loft.

The experiments were performed in the winter and in the summer, by day and at night, and with various conditions of heat, moisture, storms, barometer, number of individuals present, &c. The following small table gives the mean results:

Table of means of carbonic acid, per 10,000 *volumes.*

In the legislative halls.	Floor.	Galleries.	Illuminating loft.	Mean.
House of Representatives, June 30, 1864.—Fair audience; storm	5.5	4.5	.....	5.0
Senate, February 9, 1865.—Fair audience; clouds and wind	5.7	4.0	4.6	4.8
House of Representatives, February 16, 1865.—Small audience, rain	3.5	3.5	3.9	3.6
Senate, February 24, night.—Galleries crowded; cold and clear	4.6	4.8	*7.3	4.7
Mean of all of the experiments on the halls	.....	.....	.....	4.5

*Not included in the mean; is due to the gas-lights, 1,500 flames, burning above the ceiling

These results are wonderful, and *demonstrate a very superior ventilation, or renewal of the air.* They show less carbonic acid than was obtained by observers in Europe in the analysis of the external atmosphere, and if carbonic acid be a potent cause of insalubrity in unventilated rooms, our legislators breathe an air more free from this gas than the atmosphere of the Alps. (See page 37 of this report.) This is due to the rapid exchange of the air, and to the small amount of carbonic acid contained therein.

It will be perceived from the experiments that this gas is very uniformly diffused throughout the halls, showing a regular and equable ventilation.

With a uniform velocity of the fan, the carbonic acid of the experiments is inversely proportional to the size of the audience; but from the large volume of air delivered the difference is not very great.

In the experiments in the Senate chamber at night, February 24, I have noted the revolutions at forty-five per minute, as I measured them at 10 p. m.; but the engineer assured me that the fan had been making fifty revolutions per minute during the whole of the evening.

It follows from these observations that the ventilation is as good at night with a crowded hall as in the day-time, but that the velocity of the fan must be attended to to obtain sufficient renewal of the air.

The night experiments demonstrate that while carbonic acid accumulates to a certain extent in the illuminating loft—a phenomenon due to the immense combustion of gas—it has no perceptible effect upon the ventilation. The excess is carried off by the current more rapidly than it can diffuse itself into the hall.

If we now compare the proportion of carbonic acid in our legislative halls with that obtained by observers for other similar places, we shall find an extreme excellence in favor of the ventilation of the Capitol extension. To effect this comparison, I have made an extensive search into the English, German, French, and American scientific journals, and have been surprised to find how little has been done with so interesting a subject.

To enable a fair comparison, I have embodied in the following tables the *relative amount* of carbonic acid in the air of the halls and other apartments—that is, the actual

quantity of carbonic acid obtained divided by the normal amount of the same gas in the external atmosphere:

Tables of the relative amount of carbonic acid.

1. IN HALLS AND LARGE APARTMENTS.

Observer.	Locality.	Relative carb. acid.
Wetherill	House of Representatives, Washington, June 30, 1864	.7
Do	....do....do	1.4
Do	Senate, Washington, February 9, 1865	2.2
Do	....do....do	1.5
Do	....do....do	1.7
Do	House of Representatives, Washington, February 16, 1865	1.3
Do	....do....do	1.3
Do	....do....do	1.4
Do	Senate, Washington, February 24, 1865	1.7
Do	....do....do	1.8
	Mean of the above	1.6
Leblanc	Lecture-room, Sorbonne, Paris, before the lecture	10.6
Do	Lecture-room, Sorbonne, Paris, after the lecture	16.8
Do	Chamber of Deputies of France	4.0
Do	Opera comique, parterre	3.8
Do	Opera comique, ceiling	7.0
Pettenkoffer	A lecture-room	7.1
Laissaigne	A lecture-room, ceiling	12.4
Do	A lecture-room, floor	11.0
Do	A lecture-room, ceiling	9.8
Do	A lecture-room, floor	8.7
Loppens	A theater, parterre	9.3
Do	A theater, gallery	10.7
Roscoe	A theater, parterre	7.1
Do	A theater, gallery	8.7
R. Angus Smith	A theater, pit, late in the evening	6.3 to 8.0

Tables of the relative amount of carbonic acid—Continued.

2. IN SCHOOLS.

Observer.	Locality.	Relative carb. acid.
Wetherill	A public school in Washington	3.5
Do	Same, in another part of the room	3.9
Do	....do....do	3.5
Do	A public school in Washington, Mrs. Rodier's school; mean of three analyses in different parts of room.	5.3
Leblanc	Schools in Paris	7.7
Do	....do	14.2
Pettenkoffer	A school in Germany, (well filled)	16.0
Roscoe	Schools in England	6.4
Do	....do	8.4
Do	....do	8.8
Do	....do	6.6
Do	....do	8.0

3. IN DWELLING-ROOMS.

Wetherill	Dining-room, occupied by ladies sewing, in Washington	1.6
Do	A sleeping-room immediately after rising, in Washington	2.0
Leblanc	A sleeping apartment in Paris	0.7
Do	A sleeping apartment in a convent, 54 persons	1.5
Do	do do	4.6
Do	A sleeping apartment in a hospital, 55 persons	13.1
Do	A sleeping apartment in a hospital, 121 persons	9.5
Do	A sleeping apartment in an asylum, 116 persons	4.4
Roscoe	Military barracks, mean of experiments, England	3.7
Do	Unventilated family dwelling	3.4
Pettenkoffer and Gilm., mean	A dwelling-room	1.6
Do	do	1.4
Pettenkoffer	A dwelling-room	1.3
Do	A very full room, floor	5.0
Do	A very full room, ceiling	5.9
Do	A room free from any closeness	1.1
Do	do	2.0

4. IN MISCELLANEOUS APARTMENTS.

Pettenkoffer	A badly ventilated work-shop, Germany	4.4
Do	A Munich beer saloon	10.9
Leblanc	Mazas prison, France, a cell well ventilated	4.3
Do	do do	13.1
R. Angus Smith	Mines of Cornwall, mean of 300 experiments	19.5
Do	Mines of Cornwall, maximum	56.5
Raymond de Luna	Hospital, Madrid	5.8
Do	do	8.3
Do	Air of bedroom, on rising	9.2
Do	Air of bedroom, after two hours' ventilation	3.0
Hammond	Hospitals, United States, best ventilation	1.8
Do	do do	5.7
Do	Air of bedroom, on rising	2.6
Do	Air of bedroom, after three hours' ventilation	1.2

A consideration of these tables will show that the ventilation of the halls of Congress is far superior to the ventilation of the French Chamber of Deputies, or of any other large, well-filled apartment in Europe upon which experiments have been recorded, and is the same as that of our airy and well-ventilated private dwellings. In the latter, according to Pettenkoffer's experiments, with which my own accord, a room having in its air a relative carbonic acid of 2.0—that is, twice as much as exists in the external and normal air—is free from any closeness. The ventilation of the halls of legislation falls within this limit.

Experiments 64 and 65, in the table of data and results, were performed upon the air of my own sleeping apartment, which is a fine, large room of 5,700 cubic feet capacity, and remarkably free from closeness. Doors (three) and windows (two) were situated in three of the sides of the room, and upon the fourth was an anthracite coal fire in a grate. When the air of experiment 64 was taken, the room had been aired, and was unoccupied, and the result demonstrated a relative amount of carbonic acid = 1; that is, of equal purity with the external air. Several persons occupied the room in the evening, and two adults and two small children slept in it. The air of experiment 65 was taken the next morning, immediately upon rising, and yielded a relative carbonic acid = 2, showing thus that a good ventilation had been effected by the action of the fire in the grate. General Morin (Experiences sur les effets de ventilation produits par les cheminées d'appartement. Comptes Rendus, lvi, p. 16, 1863) performed experiments upon the ventilating effect of chimneys and the crevices of doors, windows, &c., upon an office in the Conservatoire des Arts et Métiers. The room could be heated at pleasure by an open fire or by the register of a hot-air furnace. It was occupied usually by a single person, although from ten to twelve assembled there occasionally for a few moments. Under these circumstances the room was sufficiently ventilated by the sole action of the chimney, without fire. The quantity of air evacuated by the chimney was determined from its velocity, which was measured, first, for the action of the hot-air furnace alone, and, second, for a fire in the chimney. He experimented also with fires of wood, coal, and illuminating gas.

When the external air had the temperature of from 35.24° to 50° Fahrenheit, and

the interior temperature ranged from 64.4° to 71.6°, the chimney withdrew from the room 400 cubic meters per hour, which is equal to 235½ cubic feet per minute.

The furnace introduced 154 cubic meters of hot air of temperature between 127° and 212° Fahrenheit, consequently 246 cubic meters per hour, equal to 144.8 cubic feet per minute, entered the apartment by the crevices of the doors and windows; from which it appears that an abundant ventilation was effected by the action of the chimney.

The dwellings of citizens in the ordinary circles of life are generally well ventilated for the number of persons usually within them. This ventilation is effected, by the usual construction of houses, through accidental sources; that is, the ventilation was not kept in view in the plan. Experience has shown it to be sufficient in most of these cases, and hence the general attention has been diverted from the importance of ventilating larger and more crowded rooms in which persons are detained for a comparatively short time.

It would prove satisfactory if the ventilation of public halls approached the condition of the ordinary houses of our more affluent citizens; but in general they vie with the crowded and small habitations of the poor in an impure atmosphere. The experiments performed have shown that the halls of Congress are free from this defect, and that they possess a superior ventilation. The fault which some have found with them arises, as will be shown directly, from a deficiency not of *air*, but of *moisture*.

The public schools of Washington, of which the air was examined, were not situated in buildings constructed for the purpose. They are not as deficient in ventilation as the schools of France, England, and Germany, on which we have experiments; but are yet too much so to secure that important desideratum in the education of the young, "a sound mind in a sound body." It is understood that these school-rooms are merely temporary, and it is to be hoped that no delay will occur in the change of their pupils to rooms more conducive to health.

Air from the top of the dome.—It having been supposed by some that the introduction of fresh air from a great elevation would secure a purer atmosphere for the purposes of ventilation, I performed experiments (84, 85, 86) upon the external air taken from the top of the dome, comparing it with that received near the level of the ground, upon the first platform of the steps ascending the main portico of the Capitol. De Saussure, Gay Lussac, Schlagintweit, and others obtained a *larger proportion of carbonic acid* in the superior strata of the atmosphere; my results confirmed this fact for the difference of level between the ground and summit of the dome. Placing the proportion of carbonic acid in the former at 1, the relative carbonic acid at the summit of the dome=1.06. The wind was from the southeast, and consequently not from the densely peopled portion of the city. Probably an air coming from the city would have been found still richer in carbonic acid, which had proceeded from the chimneys of the dwellings and manufactories. Hence it was thown to be undesirable, as concerns the carbonic acid, to receive the air from too great an elevation.

III. THE QUANTITY OF FRESH AIR INTRODUCED BY THE FANS.

The carbonic acid evolved by the respiration of an audience is diluted with air to a degree depending upon the volume of fresh air introduced by the fans.

If, therefore, we know the proportion of carbonic acid in the external air and in that of an apartment, and also the number of individuals present, we can calculate, approximately, the volume of air which has been introduced. This is the chemical determination of the degree of ventilation; it has been effected by Roscoe, for his experiment No. IV, in the following manner:

If we assume, as an average of the experiments performed by different observers, that a man exhales 0.686 cubic feet of carbonic acid per hour, 16 men will exhale in six hours 65.86 cubic feet, and it is required to know with how much air, containing 0.04 per cent. of carbonic acid, these 65.86 cubic feet must be mingled to yield an air of 0.1242 per cent. of carbonic acid, as found by the analysis. Since the fresh air to be added contains carbonic acid, we require more of it that we would need were it free from that gas.

Let V represent the volume of air free from carbonic acid that would be required, and a the fraction which the impurity in the air (0.04) is of the limit of impurity in the mixtures (0.1242;) and let V^1 represent the volume of normal air that we require, then:

$$V^1 = V + V\,a + V a^2 \;.\;.\;.\;.\;.\; + V^n$$

It will be sufficient to calculate the three first terms only of this expression:

$$0.1242 : 99.8758 :: 65.86 : V = 52961.7;$$

$$a = \frac{0.04}{0.1242} = 0.322;$$

$$\text{and } a^2 = 0.103684.$$

Employing these numbers in computing the value of V^1, we find that V^1 is equal to 75,500 cubic feet of fresh air which have passed into the room in six hours, carrying off 0.1242 of its bulk of carbonic acid.

This volume of air is equal to a ventilation of 13.1 cubic feet of air per man and per minute, and was found sufficient (by observation) to remove all unpleasant odors.

By a direct experiment upon the velocity of air escaping through the chimney, Roscoe found a ventilation from this source equal to two cubic feet per man and per minute; consequently the bulk of vitiated air passes off through accidental sources of ventilation, such as crevices in the doors and windows, and by diffusion of the carbonic acid through the walls.

Calculation of the ventilation of the Senate by the chemical method.—In Roscoe's calculation he obtains the number 76,600 for the cubic feet of air in six hours instead of 75,500. The former gives to each man a volume of 13.3 cubic feet of air per minute. He employs in his computation 0.686 cubic feet of carbonic acid per hour as the quantity exhaled by an average man, while upon a previous page he accepts 0 699 cubic feet as the mean of the experiments of several observers. In the following calculation let us assume the latter number, and suppose that 1,000 persons were present in the Senate chamber upon the evening of February 24, 1865, when experiments 66, 67, 68, 69, and 70 were performed.

By these experiments the carbonic acid in the external air was 2.648 per 10,000, and the proportion of this gas in the air collected on the floor was 4.557; consequently $a = \frac{0.02648}{0.04557}$. A thousand men will exhale 699 cubic feet of carbonic acid in an hour; V, therefore, will equal 2,639,030 cubic feet; and V^1 will be found by calculation to equal 5,073,619 cubic feet of fresh air required in an hour, or 84,560 cubic feet per minute, to reduce the carbonic acid exhaled by 1,000 men to a dilution of 0.04557 per cent. This is equal to 84½ cubic feet per man and per minute.

The power of the fan has been estimated by its builders at 60,000 cubic feet per minute, or 60 cubic feet per person for a thousand individuals.

I have assumed an audience of only 1,000 persons in this calculation, which is probably too low, as the floor and galleries were crowded, as is usual toward the close of the session.

An audience of 1,400 persons would have 60.4 cubic feet per minute for 84,560 cubic feet of fresh air; consequently the inference from the chemical method of determining the amount of ventilation shows that the fan possesses the power that it was supposed to have.

Experiments upon the velocity of the air leaving the fan.—I regret, for the want of a delicate wind-wheel, to have been unable to test directly the velocities of the air-currents in the air-ducts of entrance and exit. My experiments do not, indeed, leave any question as to the amount of ventilation unanswered, which would have been settled by such an investigation, but it would have been interesting to have compared the results afforded by the velocities and by analyses.

I performed, however, the following experiments with an anemometer, or syphon manometer, placed at my disposal by the architect, upon the velocity of the air as it enters the main duct, applying the instrument to a hole which I found prepared for it in the fan-room:

IV. VELOCITY AND QUANTITY OF AIR ENTERING THE MAIN AIR-DUCT OF THE HOUSE OF REPRESENTATIVES.

Table of results for March 30, 1865.

Revolutions of the fan per minute.	A—velocity of the air—feet per second.	C—cubic feet of air—feet per minute.	C—cubic ft. per minute, less one-tenth.	C—cubic feet of air per minute and person, for 1,000 of audience.
45	18.08	61694	55525	55.5
50	21.52	73430	66087	66.0
60	23.48	80117	72105	72.1
65	25.26	86215	77593	77.6

As the results of the analysis in the House of Representatives did not differ much from those of the Senate, we may find a confirmation of the degree of ventilation, as calculated by the chemical method, in the results of these experiments upon the velocity of the air current.

With a moderate degree of care in the management of the fan, we can be sure of at least from fifty to sixty cubic feet of air per minute and person,* which is an excessive amount of ventilation, as will be seen from a consideration of what has been proposed and effected in Europe. With this velocity I have not, in moving about the halls to perform the experiments, perceived any unpleasant currents, which is, of course, an important consideration.

V. THE DEGREE OF VENTILATION EXISTING IN SOME OF THE PUBLIC EDIFICES OF EUROPE.

Several of the public edifices of Europe have been subjected to a careful examination by scientific men of the first rank as to the degree of ventilation existing in their apartments. It is interesting to compare the results obtained, and the volumes of air deemed necessary for a proper ventilation, with those of our Capitol.

Péclet, Morin, and others devoted to this branch of investigation, arrive at the actual amount of fresh air introduced by an examination of the velocity of the air currents entering and leaving the apartment.

That degree of ventilation is deemed sufficient which permits no persistence of bad odor in the place to be ventilated.

This, however, is a very uncertain criterion, and the only correct method of ascertaining the proportion of fresh air needed for a perfect ventilation would result in combining the study of the velocity of the air currents with the determination of the relative amount of carbonic acid in the air of the inhabited apartment, which has, in fact, been effected in the present investigation.

Judging from the odor, General Morin assumes that 23.5 to 35.3 cubic feet of air per minute and patient are scarcely sufficient for the ventilation of the hospital Beaujon;† and Péclet, in criticising these results, thinks that they are too high, and hopes for the sake of humanity that some other source of insalubrity, as unwashed bed-clothes or unwhitewashed walls, made the necessity for so large a ventilation improperly apparent.

Peclet himself assumes from 5.9 to 11.8 cubic feet per person and minute as a proper ventilation; and yet, according to the experiments in the prison Mazas, this quantity was insufficient to restrain the odor of the close-stool, when without water, from the cell, while 3.5 cubic feet of air per minute were insufficient to remove the odor under any circumstances.

An odorous body, such as musk, or as may be found exhaling into the air from unclean, or even from some kinds of clean men, will assert itself against even a powerful ventilation. If an odor be manifested for a few minutes and then be removed, we can judge of the degree of ventilation from the rapidity with which it becomes imperceptible; but if the perfume be constantly emitted, we can draw no such conclusions.

In a close and badly ventilated bedroom the *unpleasant odor* perceived the next morning upon entering it from the fresh air is not from the substance which is the cause of its insalubrity, but is an index or measure of the carbonic acid also present, and which is in too great excess for health. The physiological effects or physical symptoms of a bad ventilation are the same as those produced by carbonic acid. We cannot yet correctly estimate the part which morborific emanations from the body, or miasmatic substances in the air, perform to cause disease. The former would, of course, be removed from an apartment by ventilation; but atmospheric miasms would be brought to the individuals of an audience more abundantly the greater the ventilation. With respect to the actual degree of ventilation necessary for health there is great difference of opinion. In estimating this amount for an assemblage of persons we can, of course, only regard the average man. As Dr. Luther Bell (Ventilation, p. 104) correctly states, we must strike a mean of ventilation and heat. "The rubicund, four-bottled country squire, and the exsanguined and aged ecclesiastic, cannot be measured by the same scale without one or the other suffering."

The following volumes of air in cubic feet per person and minute have been assigned by different experimenters:

Dr. Arnott	2 to 3
Tredgold	4
Mr. Toynbee	10
Dr. Bell	10 to 25
Peclet, according to circumstances	10 to 20
Peclet, at least	5

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* Mr. Robert Briggs, one of the builders of the ventilating machinery, calculates the minimum ventilation of the halls at 50,000 cubic feet of air per minute for the hall of Representatives, and 30,000 for the Senate, and the maximum amount, for summer use, at double these volumes.

† In the hospital Lariboisière, from the mean of the results of three experimenters, 41.5 cubic feet per minute and patient were afforded. (Morin, Études sur la Ventilation, p. 418; ed. 1863.) To make the results comparable, I have reduced all cubic meters per hour per person to cubic feet per minute and per person, (cubic meter=35.32 cubic feet;) also temperature to Fahrenheit.

Roscoe, (insufficient in barracks)	10
Roscoe requires at least	20
Dr. Reid, (minimum)	10
Dr. Reid requires, according to circumstances	20 to 60*
Vierordt	2½

In a pamphlet on the laws of health, by Dr. E. A. Parker, reviewed in Qr. Jour-Science, January, 1865, the author concludes from the results of a number of experiments (made by others) on the quantity of carbonic acid expired and of oxygen consumed during twenty-four hours by a human being, that in order to render the products of transpiration and respiration inocuous, 33⅓ cubic feet of fresh air per minute are required. And when gas-lights are burning in a room, it must be remembered that each flame consumes as much oxygen and gives out as much carbonic acid as *five* human beings.

Peclet estimates the space occupied by an average individual at one square foot of floor-surface, and calculates the height of a room to contain an hour's supply of fresh air upon this basis, at fifty-four feet.

In Peclet's *Nouveaux Documens Relatifs au Chauffage et à la Ventilation des Etablissements Publics, Paris*, 1853, may be found the following results of experiments performed upon the degree of ventilation of certain apartments in France:

In the prison Mazas, examined by a commission of scientific and practical men, three and a half cubic feet of fresh air per minute were found insufficient to maintain the purity of air in one of the cells. A ventilation of 5.9 cubic feet was deemed satisfactory for the cell with one inmate with a burning candle, which gave, by experiment, a proportion of carbonic acid in the air equal to four and a quarter times (by volume) the quantity existing in the external atmosphere. For this degree of ventilation the temperature of the apartment conducive to health and comfort was placed at 60° Fahrenheit.

The church of St. Roche, examined by a commission during the winter of 1845–'46, was found to have a capacity of 32,000 cubic meters. Its ventilation was at the rate of 10,000 cubic meters per hour, and renewed the air eight times during the day. As the church would contain 3,200 persons, it would afford to each person 10 cubic meters of air for an hour; that is, 5.9 cubic feet per minute.

The Salle des Sciences de l'Institut, examined by M. Cheronnet, with an audience of one hundred and eighty persons, and ventilated by the draught of a chimney, according to the plans of Mr. Duvoir-Leblanc, afforded to each person per minute 16.6 cubic feet of air. In a second experiment the volume of air afforded was 17.3 cubic feet.

L'hôpital du Nord.—A commission of *savans* appointed to decide upon different plans submitted for the ventilation of this hospital, accepted that which gave to each bed per minute from 11.8 to 23.5 cubic feet per hour.

Experiments upon the large lecture-room of the Conservatoire des Arts et des Métiers, by General Morin, yielded the following results, (Peclet Op. cit., p. 49:)

For the most active ventilation.

February 14	For 775 persons..	8.88	Cubic feet per minute and person.		
February 18	For 850 persons..	8.83	Do.	do.	do.
February 27	For 800 persons..	9.18	Do.	do.	do.
Mean		8.96	Do.	do.	do.

For the less active ventilation.

March 7	For 800 persons.	5.24	Cubic feet per minute and person.		
March 8	....do....do	5.41	Do.	do.	do.
March 12	....do....do	6.47	Do.	do.	do.
Mean		5.71	Do.	do.	do.

General Morin has published some experiments upon the lecture-rooms of the Conservatoire, later than the preceding, in the Comptes Rendus for 1863, (vol. lvi, p. 201.) These apartments are, a large rectangular one, capable of containing from 700 to 800 persons, and a smaller one, which is semicircular, and which will not accommodate more than 400 individuals. They are warmed by a hot-air furnace, and are both ventilated by the draught of one chimney. The ventilation is principally a downward one. Particular experiments demonstrated that a temperature of 64.4° Fahrenheit was insuffi-

*Reid required for British House of Commons 60.

cient for the comfort of either the lecturer or of the audience, but had to range from 68° to 69.8° Fahrenheit. The mean temperature of the rooms, in two series of observations with a variable number of auditors, was, for the first series, 67.64° Fahrenheit, and for the second series, 67.46° Fahrenheit. In the smaller room there were furnished 56.9 cubic feet of fresh air per minute and person. In the large room this volume was 14.38 cubic feet. In the smaller room there was no odor in the air, either of the apartment or of the exit-duct. In the larger room the air was free from odor, but the smell was perceptible in the exit-duct. From these experiments Morin infers the necessity of a *minimum* ventilation of 14 cubic feet per person and minute. General Morin has also (Comptes Rendus, lvi, p. 365, 1863) investigated the ventilation of the new theaters of Paris with the following results:

Theâtre Lyrique.—September 24, 1862, temperature, 71.6° Fahrenheit; and that of the external air, 62.2°; ventilation, 24.01 cubic feet per minute and seat. By a second experiment, December 9, temperature, 71.6°; of external air, 46.4° Fahrenheit; ventilation, 24.02.

Theâtre de la Gaieté.—January 13, 1862, air evacuated per seat, per minute, equaled 17.17 cubic feet.

Theâtre du Cirque.—August 11, 1862. The air evacuated equaled 21.19 cubic feet per minute and seat. When examined again, on January 13, 1863, after the adoption of an ill-advised plan, the ventilation had fallen to 10.47 cubic feet.

The Chamber of Peers of France, in the Luxembourg palace, was ventilated by M. Talabot, in 1860, upon plans tested and approved by Thenard, Gay Lussac, Pouillet, and Peclet. The current is determined by a pair of fan-wheels, aided by a gas-burner placed in a circular aperture in the ceiling. The apparatus in full action withdrew 425,700 cubic feet per hour. In summer the ventilation is effected by the aid of an additional pair of fans, the gas-burner being disused. The ventilation varies from 7 to 12 cubic feet per minute and person.

In the Pentonville Model Prison the ventilation yields from 30 to 45 cubic feet per minute to each person.

Hood (Warming and Ventilation, p. 261) estimates the air required for ventilation by the amount needed to take up the moisture from the skin and lungs. The air required for respiration (*i. e.*, oxidation) is very much less than that needed to hold in solution the vapor of the skin and lungs, which evolves 12 grains of water per minute.* If the temperature of a room be at 60°, with a dew-point of 45°, a cubic foot of its air will absord 2¼ grains of vapor; or, in other words, the perspiration from the body will saturate 5¼ cubic feet of air per minute. If, however, we take the dew-point lower, say not to exceed 20° or 24°, then 3¼ cubic feet of air per minute will be required to carry off the insensible perspiration; while for the pulmonary supply ¼ cubic foot will be needed, making a total of four cubic feet. In summer, as the dew-point is higher, more air will be needed, viz, 5 cubic feet per minute for summer ventilation.

From the preceding examples, calculations, and considerations, it will be admitted that the degree of ventilation of the Capitol extension is superior to any of the halls described in respect to the volume of fresh air furnished.

The House of Representatives, with a capacity of 465,372 cubic feet, may be supplied with 60,000 cubic feet of air per minute, which will change the whole air every seven minutes and furnish to each of a thousand persons 60 cubic feet per minute.

This amount of ventilation appears to be excessive, and I think that it might be diminished with advantage and economy, if the chief defect of the air, viz, its want of moisture in the winter, were remedied.

III. UPON RESPIRATION.

It is not possible, nor is it, indeed, necessary, to enter, in this report, upon the interesting question of the physiology of respiration. Some remarks may, however, be permitted.

I. PRODUCTS OF RESPIRATION.

Professor Miles, in his report upon the ventilation of dwelling-houses and schools, assumes that if the temperature of the air range from 65° to 70° Fahrenheit, we will have the following average results for the—

Respiration of an adult:

Number of respirations per minute	20
Cubic inches of air inhaled at each respiration	20
Cubic inches of air inhaled per minute	400
Cubic inches of oxygen at each respiration	4
Cubic inches of oxygen per minute	80

*According to Seguin, the maximum loss of water during 24 hours from the lungs and skin, as insensible perspiration, is, for an individual, 5 pounds; the minimum being 1¾ pounds. The average exhalation per minute is, for the lungs, 7; for the skin, 11; total, 18 grains. Carpenter (Physiology, p. 532) assigns six grains per minute as the average exhalation of water by the lungs. (See, also, v Gorup Besanez Physiologie.)

Products respired:

1. Damaged atmosphere with nitrogen in excess.
2. Fifteen cubic inches of carbonic acid gas.
3. Three grains of vapor of water.
4. The surrounding air is vitiated by the mixture of the products of respiration with it at the rate 2½ cubic feet per minute.

The quantity of air inhaled at each respiration has been found to be different by different observers, owing to the difficulty of determining it with accuracy; thus:

Herbert assigns	20 to 30		cubic inches
Valentin	14	92	"
Vierordt	10	42	"
Coathupe	16	..	"
Hutchinson, average	16	20	"
Hutchinson, extreme	7	77	"

Assuming 20 cubic inches to be the average quantity, the volume of air remaining in the lungs, and which *cannot* be expelled, is estimated at from 75 to 100 cubic inches, and the quantity which can be expelled by a *forced expiration* is as much more; the sum of the two being from 150 to 200 cubic inches, which is from 7½ to 10 times the breathing volume. From these considerations it will be perceived that something more than the respiratory act is required to exchange for oxygen the carbonic acid contained in the lungs. This exchange is effected by the law of the diffusion of gases, a phenomenon which takes place with great rapidity. (Carpenter's Physiology.) Draper (Physiology, p. 153) found that a little bubble of shellac blown upon the end of a glass tube permitted the passage of ammonia. If a bottle be rinsed out with ammonia, and a soap bubble be blown in it by means of a glass tube, a rod moistened with hydrochloric acid placed at the other end of the tube gives *instantaneous* evidence of the presence of ammonia by the formation of copious white fumes. Thus a rapid change of the air in the lungs is effected. Grehant (Comptes Rendus, lv., p. 278) finds the act of respiration to be a true ventilating process. He inhaled a certain volume of hydrogen gas, and determined, in the same volume of exhaled gases, the proportion of air and hydrogen. It followed that, by the inhalation of 500 cubic centimeters of pure air, the same volume, by expiration, contains ⅛ of pure and ⅞ of spoiled air; also that the ⅞ of pure air remaining in the lungs become uniformly diffused through the air-passages after two respirations. The total volume of air respired daily varies, according to different authorities, from 366⅓ cubic feet to 398½ cubic feet; whence 800 cubic feet have been assigned as the minimum quantity of air that can be safely allowed for each individual confined in any room. (Carpenter.) Air which already contains carbonic acid does not exchange by diffusion and endosmosis with that vitiated in the lungs as readily as pure air. Messrs. Allen and Pepys found that when 300 cubic inches of air were respired for *three minutes*, only 28 cubic inches of carbonic acid were found in it, although the previous rate of its production, taking the air fresh at every respiration, was 32 cubic inches per *minute*. The unhealthfulness of unventilated rooms, therefore, increases in a larger ratio than the respective amounts of carbonic acid found in them.

II. THE AMOUNT OF CARBONIC ACID EVOLVED IN RESPIRATION

is important, as it enables us to calculate the amount of fresh air needed in an apartment to maintain a proper degree of purity. In the calculation from the data of my experiments (p. 62) I have assumed, with Roscoe, 0.699 cubic feet per hour (=0.01165 cubic feet per minute) as the amount of carbonic acid exhaled by an average man.

This is the mean of experiments by Scharling, who obtained 0.618, and of Vierordt and Hutchinson, who obtained 0.780 cubic feet per hour. Andral and Gavaret, (Jour. Pr. Ch., xxix, 331,) Scharling, (Id., xxxvi and xlviii,) Hervies and Saint-Sager, (Comptes Rendus, xxviii, 260,) and others, have published experiments upon this subject, from which it appears that the variation in the amount of carbonic acid exhaled from the lungs and skin depends upon the temperature of the surrounding medium, age, sex, development of the body, state of health or disease, muscular exertion or repose, sleep or watchfulness, period of the day, and state of the digestive process.

Laissaigne, (Jour. Pr. Ch., xlvi, p. 287,) by a calculation based upon the analysis of the air of an unventilated room, having deducted the carbonic acid normally in the air, and having allowed for the air displaced from the room by the audience, (the bulk for an average man, with clothing, having been ascertained, by immersion in a bath, to be 2¾ cubic feet,) determined the exhalation of *carbonic acid* to be 1,083.86 cubic inches for the average man in health, or a little less than ⅛ of his own volume per hour.

This agrees with the experiments already given by Scharling, which, in cubic inches, is 1069.2, and is not far from those by Vierordt and Hutchinson, which are, cubic inches, 1,348; mean, 1,209 cubic inches per hour.

By a similar calculation upon the air of stables, he found that a horse breathes out

13,409 cubic inches, or 0.328 of his volume, in carbonic acid per hour, and that the ratio of the hourly quantities exhaled by a man and by a horse are as 1 to 12.3.

An ox exhales in an hour	16,545 cubic inches carbonic acid.
A ram, of eight months	3,371 cubic inches carbonic acid.
A goat, of eight years	1,311 cubic inches carbonic acid.
A kid, of five months	708 cubic inches carbonic acid.
A hound	1,117 cubic inches carbonic acid.

Pettenkoffer and C. Voit (Kopp and Wills Jahresbericght, 1862, 523, and 1863, 635) have made an extensive series of observations upon the respiration of dogs, in the "respiration and perspiration apparatus," constructed in Munich by the munificence of the King of Bavaria. They found that atmospheric air contains (normally) no other appreciable carbon compound except carbonic acid, and that the proportion of hydrogen is also inappreciable. For every 416–428 grams of carbonic acid in the breath of dogs, they discovered from 4.3 to 7.2 of *hydrogen*, and from 3.7 to 63 of hydrocarbons. They found that the sum of the carbon, hydrogen, oxygen, and nitrogen expelled from the body in 24 hours was equal to the sum of these elements taken in the food. They observed also that the separation of carbonic acid by the skin and lungs exhibits a considerable variation in quantity; thus, by a generous diet, they found three times the quantity than obtained after a ten day's fast.

J. Reiset, (Comptes Rendus, lvi, 740,) who investigated the process of respiration upon calves, sheep, hogs, and turkeys, found that, in a close stable, having a capacity of 133½ cubic meters, and containing 50 sheep, the air, after one hour and ten minutes, contained one per cent., and after twelve hours, 10 per cent. of carbonic acid; so that, if the respiration could have continued in this proportion, the whole of the oxygen would have been converted into carbonic acid in 25 hours.

Dr. E. Smith, (Proceedings Royal Soc., ix, 611, 638,) in his "Inquiries into the Phenomena of Respiration," observed the quantity of air inspired, and of carbonic acid expired, together with the rate of pulsation and respiration, noting—1st. The phenomena during the 24 hours with and without exertion and food. 2d. The variations from day to day and for the season. 3d. The influences of particular kinds of exertion.

The experiments were performed upon himself and upon three other persons; the results are stated in weight. The quantity of carbonic acid expired in 24 hours varied from 24.274 ounces to 16.43. In a light sleep it was from 4.88 to 4.99 grains per minute, and the total evolution in the six hours of the night was 1,950 grains. The quantity of air inspired varied from 583 to 365 cubic inches per minute, the depth of inspiration being from 30 to 39.5 cubic inches. The respirations were, to the pulsations, as 1 to 4.63 in the youngest, and as 1 to 5.72 in the oldest.

One-half of the product of the respirations into the pulsations gave nearly the cubic inches of air inspired by some of the persons.

The proportion of the carbonic acid to the air inspired varied from 1 : 54.7 cubic inches to 1 : 58.

The variations of the carbonic acid evolved during the working day yielded an average maximum of 10.43 and a minimum of 6.74 grains per minute. This quantity increased after a meal, and decreased from each meal, so that the minima were nearly the same, and the maxima were the greatest after breakfast and tea.

The hot season caused a diminution of all the respiratory phenomena. The maxima were in spring, and the minima toward the close of summer, with periods of decrease in June and of increase in October.

In the author the diminution amounted to—

In the quantity of air	30 per cent.
In the rate of respiration	32 per cent.
In the quantity of carbonic acid	17 per cent.

The maximum influence of the food upon the respiration was observed to be effective within two and a half hours after its reception.

III. ON THE DIRECTION THE PRODUCTS OF RESPIRATION TAKE AFTER LEAVING THE BODY.

It does not enter within the scope of this report to pronounce an opinion upon the different methods of ventilation. Having tested it and approved its efficiency, I am absolved from the responsibility of advising the adoption of any different plan from that which exists in the Capitol. Before this conclusion was reached through the experiments, I made the following observations upon the course of the breath after it leaves the body:

Mr. Goldsworthy Gurney, in his testimony before a committee of the House of Commons, asserts that the breath is forced downward through the nostrils *to the ground*, which is the natural provision against breathing the same air over again. He proves

the fact by tracing the downward course of the current by the condensation of the breath of the nostrils on a frosty day. This opinion is quoted by those authors who approve of the downward system of ventilation, and it is given, also, in an admirable treatise upon the elements of ventilation, contained in a report by Messrs. Shedd & Edson to a committee of the Massachusetts legislature.

The conditions are different for a person in the external air and when in a room raised to a comfortable temperature. In the former case the breath, nearly saturated with moisture from the temperature of the body, parts with a large portion of its water by the action of the hygrometric condition of the cold external air. These particles of water thus produced are specifically heavier than air, and their tendency to fall is assisted by the downward impulse from the nostrils.

The experiment, to be fair, should be performed in the room, and at the temperature concerning which the practical conclusions are drawn. On March 27, 1865, at 1½ p. m., in the laboratory of the Smithsonian Institution, the temperature of which was 69°.26 Fahrenheit, a delicate thermometer, held in the hand for several minutes, indicated 95°.36 Fahrenheit. Held in the same mouth, and observing the degree by the aid of a mirror, it indicated the same temperature. Upon smoking a pipe with a stem of wood six inches long, slowly, with the thermometer also in the mouth, the temperature did not sensibly rise. Having thus obviated a source of error from any supposed heat in the tobacco-smoke, I experimented upon the air currents of the breath, both while sitting and standing, following them readily by aid of the smoke.

Before expulsion the smoke was held in the mouth for a short time to insure its temperature to be the same as that of the breath, and the hot pipe was held or placed aside. When the smoke is expelled gently from the nostrils, as in the act of breathing, it proceeds downward for a foot or less, and then rises rapidly. It rises more rapidly when in the sitting posture by reason of the current of warm air ascending from the legs.

When the smoke is blown with great force through a glass tube, it can be made to reach the ground, but the tendency after it loses its momentum is still upward. Blown horizontally, it rises as soon as the horizontal force is exhausted, which depends upon the force of the blast. The smoke blown upward through the glass tube rises very rapidly, as may be seen also by the rings of smoke which some persons delight to produce.

After the experiment the smoke hangs about the ceiling, disappearing gradually.

These experiments, which any one may repeat, appear to settle the question of the upward tendency of the breath if any proof be needed.

IV. THE MOISTURE IN THE AIR.

I. GENERAL CONSIDERATIONS.

For an atmosphere which shall be salubrious to the inmates of an apartment, the hygrometric condition of the air is as important as its freedom from poisonous or deleterious gases. The experiments have shown the air of the Capitol to be as deficient in this respect as it is excellent in regard to the degree of ventilation afforded. In fact, the deficiency of aqueous vapor is, in a measure, due to the abundance of the ventilation, for the dry air of winter, having its capacity for moisture increased by warmth, is forced through the halls with such liberality as to carry off not only the carbonic acid, but also the water arising from respiration.

The evaporation of water from the body is intimately connected with health. The sudoriparous glands, which are constantly secreting their liquid, have a length of tubing which has been estimated at twenty-eight miles. The secretion takes place so gradually that the water ordinarily evaporates as insensible perspiration as soon as it reaches the exterior surface of the skin.

During severe exercise, exposure to great heat, in some diseases, or when the evaporation is hindered by an impermeable covering, the secretion collects upon the exterior of the body in drops of sensible perspiration.

The total average loss by the lungs and skin in twenty-four hours is almost 3½ pounds of water, of which somewhat more than $\frac{3}{5}$, say 2½ pounds, are furnished by the skin. Of these 2½ pounds, only $\frac{1}{6}$ is furnished by the vital process of secretion, by the sweat glands, for the greater part of the moisture transudes through the skin by simple evaporation. The cutaneous and urinary excretions are, as is well known, vicarious. The evaporation from the skin regulates the animal heat, the body being in an analogous condition to those porous earthen jars in which the inhabitants of tropical climates cool water by the evaporation of that portion which exudes to the surface of the vessel.

The estimated loss of heat to the body by evaporation, per minute, is sufficient to raise a half a pint of water from the freezing to the boiling temperature.

For health the body must evaporate a quantity of water within certain limits. The amount evaporated is influenced by the hygrometric condition of the air and by the state of the body itself. The evaporation is increased by muscular action and by a dry atmosphere; it is diminished by repose and by a moist air.

If the functions of the skin are interrupted, certain diseases are manifested. Among these are affections of the throat, catarrh—passing into acute bronchitis—pulmonary consumption, pericarditis, inflammation of the stomach and bowels, dyspepsia, rheumatism, gout, and fevers.

"In the climate, or we might say rather climates, of the United States, every possible means ought to be enlisted for enabling the inhabitants to bear up under the two extremes, constituting two contrasted climates, of great summer heat and great winter cold. The influence of one is so powerful and sufficiently prolonged as to render us susceptible invariably to the other; and we, in the Middle States, are nearly in the situation of those who should spend their summers in Egypt and their winters in Russia."*

Our country has a different climate, in respect to moisture, from those parts of Europe which have the same temperature.

Desor (Du Climat des États-Unis et de ses effets sur les habitudes et les mœurs. Actes de la Soc. Helvet. des Sc. Nat., 1853) has endeavored to show the influence of our dry climate upon the manners and customs of our people, and the difference in this respect as it appears to an European.

"The German immigrant finds that the wash dries faster; the bread which at home could be preserved for several weeks, becomes useless in a few days; the crops are more uncertain; the cabinet-makers find that their wood, which, according to the experience of the old country, was deemed sufficiently dry to be made up into furniture, warps, in Boston and New York, in a short time; further, that they must employ stronger glue in America."

Desor supposés that the influence of our comparatively dry climate stamps its impress upon the people; thus "the North Americans are, for the most part, spare, and with long necks. Europeans, in America, become speedily more lean, and Americans, in Europe, more fleshy. The European who arrives in New York, Boston, or Baltimore, is surprised at the feverish activity everywhere prevailing. Everybody is in a hurry, and the persons on the street run rather than walk. In some of the larger cities of England a similar condition is apparent; but the activity of the Englishman appears more deliberate; that of the Yankee more instinctive, and rather the result of a natural impatience than from necessity. The Americans, even with leisure, scarce take time to eat their meals. In spite of their apparent coldness, they are more excitable than the Europeans, and their sensibility is proverbial."

Whatever may be the climatic difference between Europe and America, and its physiological effect upon the people, every one has felt the oppression produced by a low dew-point, and the relief experienced upon the advent of a shower, or by an approach to the ocean or to a lake.

The moisture in the atmosphere may be regarded from two points of view; 1st. As to the absolute quantity present at any time, and for any temperature. 2d. The relation which it bears to a saturation of the air, at the same temperature, with watery vapor.

1st. The absolute amount of water (such as grains in a cubic foot of air) is measured by the depression which it exerts, by making the air specifically lighter, upon the barometric column, and which, in consequence, is taken as its measure. This quantity increases with the temperature, and is greater in summer than in winter.

2d. The relative humidity is expressed in percentages of the saturation of the air for moisture at any given temperature. The warmer the air the greater is its capacity for containing watery vapor. If, therefore, we warm a cubic foot of air which is saturated with moisture, that is, which has a relative humidity = 100, we may attain a relative humidity of, say, 50, or of any number below 100; and, *vice versa*, air posessing a relative humidity of 50 may attain that of 100 by being cooled to the proper degree. The relative humidity is greatest, that is, the air is nearest its point of saturation, in winter, although the absolute quantity of water it contains is then least.

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* Dr. John Bell. Treatise on Baths.

The following table of the mean proportion of aqueous vapor in the air of Halle, Germany, will illustrate these principles:

Months.	Tension, in millimeters, of the aqueous vapor, measuring the absolute humidity.	Relative humidity.
January	4.509	85.0
February	4.749	79.9
March	5.107	76.4
April	6.247	71.4
May	7.836	69.1
June	10.843	69.7
July	11.626	66.5
August	10.701	61.0
September	9.560	72.8
October	7.868	78.9
November	5.644	85.3
December	5.599	86.2

Thus, as the tension or absolute humidity increases with the year, the relative humidity decreases.

The following table* expresses, in troy grains, the weight of vapor contained in a cubic foot of saturated air at temperatures of Fahrenheit:

Temperature of air.	Vapor, in grains.	Temperature of air.	Vapor, in grains.	Temperature of air.	Vapor, in grains.
°		°		°	
0	0.545	63	6.361	80	10.949
5	0.678	64	6.575	81	11.291
10	0.841	65	6.795	82	11.643
20	1.298	66	7.021	83	12.005
30	1.968	67	7.253	84	12.376
32	2.126	68	7.493	85	12.756
40	2.862	69	7.739	86	13.146
45	3.426	70	7.992	87	13.546
50	4.089	71	8.252	88	13.957
55	4.860	72	8.521	89	14.378
56	5.028	73	8.797	90	14.810
57	5.202	74	9.081	91	15.254
58	5.381	75	9.372	92	15.709
59	5.566	76	9.670	93	16.176
60	5.756	77	9.977	94	16.654
61	5.952	78	10.292	95	17.145
62	6.154	79	10.616	96	17.648

The relative humidity of the air very frequently reaches 100. Very rarely does it fall to 0. Nor is this 0 of observations absolute dryness of the air, but such a degree of it as to be outside of the limits of the tables which have been calculated for the reduction of psychrometrical observations. There are, however, records of extremely dry conditions of the atmosphere (Müller Lehrbuch der Kosmischen Physik, p. 404) in certain places.

1. Thus Humboldt and G. Rosé found on the steppes of Platowskaya air with a temperature of 74°.66 Fahrenheit, and a difference between the dry and wet bulbs of the thermometer of 21°.06. This condition of dryness corresponds to less than 1.967 grains

*Guyot, No. X. Smithsonian Meteorological tables.

of moisture in a cubic foot of air; and since this quantity of water would saturate air of the temperature of 30° Fahrenheit, it follows that the dew-point of the air observed must have been below 30° Fahrenheit. The relative humidity is 15.

2. Abbadie observed at Abbay, upon the Blue Nile, the dry bulb, 98°.70; the wet bulb, 67°.82; difference, 30°.96. This corresponds to 2.662 grains of moisture in the air, which was capable, from the temperature, of holding 18.75 grains; or to a relative humidity of 1.4, and to a dew-point of 38° Fahrenheit.*

3. The same observer found air upon the coast of the Red Sea during a simoon communicating to the dry bulb a temperature of 108°.86; wet bulb, 69°.08; difference, 39°:78. A cubic foot of the air was capable of holding 18.66 grains of moisture, but contained only 1.66 grains. It had, consequently, a relative humidity of 0.9, and a dew-point of 26° Fahrenheit.*

Such a degree of dryness is very unusual, and is much greater than that occasionally observed, and which is indicated by a relative humidity of 0 in meteorological reports, because the tables do not extend to the calculation of such low humidities.

Character of the air of the Mammoth Cave.—The following observations, made during a visit to the Mammoth Cave of Kentucky in the year 1855, and which are now for the first time published, have a bearing upon the temperature and hygrometric condition of an agreeable and bracing atmosphere. During the afternoon of July 17 the short route was accomplished, which embraces the points of interest not very remote from the entrance to the cave. The temperature of the external air was at 82° Fahrenheit.

During the summer season, as is well known, a current of air, which at the door of entrance is so strong that the flame of a candle is kept alight with difficulty, issues from the cave. In the winter season this current is reversed, thus exhibiting a ventilation due to the heating effect of the sun upon the earth.

In the draught of air which issued from the mouth of the cave and at a distance of about one hundred feet from the door, the thermometer stood at 72°. At the dripping spring and trough inside of the cave, the temperature was 66°. At the first saltpeter vat it was 60°, and at a short distance beyond this point it was 59°. Thus, as the visitor enters the cave, he becomes accustomed to the gradually falling temperature, and no shock is experienced in passing from an atmosphere of 82° to one of 58°. At the second saltpeter vat the dry bulb indicated 58°, and the wet one 56°, corresponding to a relative humidity of 87.6, according to Guyot's tables. The temperature of the small spring called Lake Purity was 55°. The temperature and relative humidity of all parts of the cave visited at this time were, respectively, 58° and 87.6, with the exception of the Star Chamber, which is situated near the houses built for the residences of consumptives. Here the temperature of the air was 59°, and that of the wet bulb was 55°, agreeing to a relative humidity of 76.1.

On July 18 the long route was taken in the company of a friend and with an intelligent guide. We entered the cave at 8½ a. m., and left it at ten minutes before 5 p. m. The distance traveled was estimated by the guide at eighteen miles, and although upon our feet constantly, with the exception of a short rest at dinner time, and with a delay sufficient for a bath in Lake Lethé, and sometimes using considerable exertion, we did not experience great fatigue. The temperature of the external air was 82°. In the cave from Echo River to Martha's Vineyard the mercury stood almost constantly at 58°; but in two or three instances 60° was indicated, and upon one occasion the temperature was 57°. The temperature of the water of Hebe's Spring was 56°. From Martha's Vineyard to Cleveland's Cabinet the thermometer indicated 58°. In the end of the cave, at 12*h*. 35*m*. p. m., the dry bulb stood at 58°, and the wet one at 56°, corresponding to a relative humidity of 87.6. In Washington Hall, at 2 p. m., after our dinner, the dry bulb equaled 57°; the wet bulb 56°, or relative humidity 93.6, by one observation. At 4 p. m., on the shore of Lake Lethé, dry bulb, 58; wet bulb, 56°= relative humidity, 87.6. We caught, in the above lake, two fishes and a craw-fish, without eyes, and in the end of the cave a cricket and several other insects having eyes. The proprietor would not permit a survey of the cave to be made, as it was supposed that another entrance existed upon the property of some other person, and of which rumor indicated the situation in or near the end of the cave. The insects with eyes found at this point appear to confirm this view. Such an opening in the cave would seem to be necessary to effect its ventilation. No currents of air were perceptible to the senses inside of the cave, nor was any carbonic acid discovered at the bottom of the deep pits, which were tested by throwing lighted papers into them. This cave presents the example of a bracing and salubrious atmosphere in the summer season, which qualities appear to be due, first, to its lower temperature of 58°, and, secondly, to its suitable proportion of moisture, which corresponds to a relative humidity of 87.6. The fact of its bracing property is abundantly shown by the experience of the numerous visitors, many of whom are delicate women, who make the excursion of the long route in a single day without suffering greater fatigue than a few hours of similar labor in the external air would produce.

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*By Guyot's tables.

The houses built for the consumptive patients were located in the dryest portion of the cave, where the temperature of the air was slightly higher, (one degree,) and its relative humidity 76.1, or less than in the remaining localities visited by me. The failure of the beneficial effects upon the sick, which were expected from a residence of consumptive patients in the houses built in the cave, arose not from the character or quality of the air, but from the need for sunlight, the effect of which was especially severe upon constitutions debilitated by disease.

An atmosphere of 58°, and a relative humidity of 87½, although most agreeable for exertion in the summer time, would scarcely answer for a legislative hall, were it even readily to be attained. During the warm weather a few degrees less than the temperature of the external air would prove pleasant, and the fall of temperature at that season would yield a greater relative humidity. In the winter season, in such a hall, the production of a summer atmosphere without the moisture proper to that season can only give rise to sensations of discomfort and provoke disease. The relative humidity found in the Mammoth Cave corresponds in amount to what has been, from other considerations, shown to be the most agreeable.

The rapidity of the evaporation of the body depends *principally* upon the low relative humidity of the air at a high temperature, and upon the maintenance of this condition in the neighborhood of the body by the action of currents of air. Thus, with too great dryness of the air, particularly at the elevated temperature, and especially if it pass rapidly over the body, there will be a greater degree of evaporation than is consistent with health. On the other hand, in an atmosphere saturated with moisture, the evaporation from the body would be reduced to a minimum, and would be practically nothing in such air having the same temperature as the body. Although we may bear with impunity these extremes for a short period, a persistence in such conditions would be fraught with danger.

In the external air of winter the body cools more rapidly than in summer from the difference of temperature. We regulate the expenditure of animal heat by our clothing, and in summer we do not consume in our bodies as much or as heating fuel, in the shape of food, as in winter. The winter air, though *relatively* moist, is *dryer* than the summer atmosphere in respect to the weight of vapor dissolved in a cubic foot of air. If, therefore, we raise this cold air, as in our dwellings, to the temperature of summer, thereby increasing its capacity for moisture, a much dryer air than that of summer is the result if we do not at the same time add water to it. In an ordinary dwelling-room, with the low degree of ventilation which is sufficient for a few persons, and with a stove or grate in the apartment communicating a different degree of heat to different parts of the room, the desiccating effects alluded to are not so perceptible. The inmates select naturally that part of the room which is comfortable to them, and the moisture arising from respiration is not, to a great extent, withdrawn from the room, but is extended to all parts rapidly by diffusion. When a large volume of dry air is introduced by means of a hot-air furnace, (especially if without the addition of water,) the products of respiration being rapidly carried away, and the temperature of the room becoming uniform, so as to deprive its inmates of the advantages of selecting that most comfortable to each, the effects of the rapid evaporation from the body are apparent in the complaints that the "air is *burned*."

Heating the air to a considerable degree cannot injure it for vital purposes, unless by depriving it of ozone, which is oxygen gas in a peculiar condition. There is, however, but little, if any, ozone in the air of dwellings; its function in the atmosphere is unknown to us, but appears to be that of destroying the poison of miasms. The combustion of the animalcules, dust &c., in the air would give the same products of dry distillation as other animal and vegetable substances, a portion of which would be carbonic acid, which would be so small in amount that it would almost escape the most careful observer. In the method of organic analysis by Hess, where a considerable quantity of air is drawn through the combustion tube, the carbonic acid is not found to be greater than by other systems of analysis; and the most delicate experiments have been needed lately to exhibit the reactions of carbonic acid arising from the combustion of the organic matter in the air. As regards the destruction of contagious matters supposed to exist sometimes in the atmosphere, the heating would, by destroying them, produce a decidedly beneficial effect. There is no need of forming improbable hypotheses to account for the insalubrity of a dry, hot furnace air.

The following example will serve to illustrate the hygrometric condition of the external air of winter:

At the Savage mine of Virginia City, when the external air is cold, a large volume, apparently of steam, issues from the mouth of the mine, condensing upon and covering the neighboring objects with water. This phenomenon occurs only in certain conditions of the atmosphere, as when the dew-point is rather high the cold air descends the ventilating shaft, and is warmed and saturated with moisture at that temperature by the earth. When it issues into the cold and nearly saturated air it must part with the moisture with which it is surcharged for a lower temperature, giving rise to clouds of steam.

If we desire a summer atmosphere in our winter dwellings we should give to it the mean relative humidity of the external air, or rather the mean relative humidity of the summer months, since it is probable that the annual mean does not fairly express the relative dryness of different countries, the winter humidity being nearly the same in all places. In other words, we should adopt the standard which nature extends to us.

Müller (Kosmische Physik) gives the annual mean relative humidity at 75.

Roscoe states that the experience in heating the House of Lords shows that an agreeable atmosphere, as regards aqueous vapor, is found to exist when the relative moisture ranges from 55 to 82; mean, 68½.

The following tables give the relative humidity for Washington City and for Philadelphia. The first table contains the lowest relative humidity and the means for the months of January and June, for the whole year,* and for the series of years. The mean for the series of years is calculated with and also without 1855, which appears to have been a very dry year. The second table gives the results of January, June, the year, and the seasons of the year 1863 in Philadelphia, a city of proverbial salubrity. There is also the general mean of twelve years' observations.

From these observations the mean annual relative humidity of Philadelphia is 68.5; that of Washington is 68.2; but the observations are not for so long a period as for Philadelphia. From these results it would be safe to adopt a relative humidity for the halls of Congress of from 60 to 80, which have a mean of 70°.

In the third table may be found the results of the experiments upon the relative humidity of the Capitol extension.

I have given in them the relations of a cubic foot of air to the moisture—

1st. As to the number of grains of water which it *can* contain in the respective experiments; 2d, what it does contain; and, 3d, the deficiency of water in a cubic foot of air, in the respective experiments, for a relative humidity of 70.

In the last column I have extended the calculation to ascertain the number of pounds of water required to give to 60,000 cubic feet of the air per minute a relative humidity of 70.

1. *Mean relative humidity at Washington, D. C. Results of Meteorological Observations, 1854–'59, Vol. 1. (Ex. Doc. 36th Congress, 1st session.)*

The means for—	Year.	Maximum generally.	Minimum.			Maximum.		
			7 a. m.	2 p. m.	9 p. m.	7 a. m.	2 p. m.	9 p. m.
January	1855	100	40	36	54	88	72	87
June	1855	100	59	27	48	83	60	81
The whole year	1855	100	21	0	34	81. 8	59. 0	79. 1
January	1856	100	58	36	56	93	78	83
June	1856	100	68	34	48	84	57	79
The whole year	1856	100	17	18	2	72. 3	56. 8	73. 3
January	1857	100	45	41	43	78	69	76
June	1857	100	47	22	61	82	57	81
The whole year	1857	100	.....	.....	.....	.....	.....	.....
January	1858	100	50	28	56	78	60	74
June	1858	100	64	41	48	79	57	72
The whole year	1858	100	31	14	17	78. 0	56. 5	71. 2
January	1859	100	35	36	40	74	56	69
June	1859	100	42	31	51	75	56	76
The whole year	1859	100	33	12	33	77	56	73

*In calculating the mean relative humidity of different places to compare their relative dryness, it is probable that we should omit the winter months in which the relative humidity is nearly the same in them.

Mean for the years, at all hours.

	For—				Mean for the years.
	1855.	1856.	1858.	1859.	
Relative humidity	73. 30	67. 20	68. 57	68. 67	69. 44
Do	(Omit.)	67. 20	68. 57	68. 67	68. 15

2. *Mean relative humidity of Philadelphia.* (*From table quoted by Messrs. Shedd and Edson. Report, page* 21.)

1863—Mean results for—	Maximum.	Minimum.	7 a. m.	2 p. m.	9 p. m.	The whole day.
January	100	38	78. 0	65. 3	74. 8	72. 7
June	94	22	67. 9	51. 0	65. 6	61. 5
For the year	100	15	74. 5	56. 7	70. 5	67. 2
Winter	100	29	77. 9	63. 4	73. 5	71. 6
Spring	96	15	72. 3	51. 7	69. 4	64. 5
Summer	94	22	74. 1	58. 5	71. 9	68. 2
Autumn	97	25	75. 1	53. 8	69. 2	66. 0
General mean for 12 years	100	13	76. 0	57. 4	72. 2	68. 5

3. *Table of humidity.—Experiments on the ventilation of the Capitol Extension : Wetherill.*

Number of experiment.	Temperature, air, Fahrenheit.	Relative humidity; saturated air = 100.	A cubic foot of air—(grains of water.) Can contain at the temperature—	Does contain—	Requires for a relative humidity of 70—	60,000 cubic feet per minute require pounds of water—	Date.	Locality.
	°						1864.	
1	90. 5	47	14. 81	7. 06	3. 46	29. 6	June 27	Smithsonian laboratory.
2	86. 9	51	13. 50	6. 88	2. 57	27. 0	June 27	External air, Capitol portico.
3	86. 0	50	13. 15	6. 57	2. 63	22. 5	June 27	Senate chamber.
4	82. 4	77	11. 79	8. 25	Above 70	.....	June 27	Senate chamber; storm.
5	84. 2	58	12. 45	7. 22	1. 49	12. 8	June 27	Senate chamber.
6	74. 3	35	9. 17	3. 21	3. 21	27. 4	June 28	Sergeant-at-arms' office.
7	77. 0	34	9. 97	2. 39	4. 59	39. 3	June 28	Senate chamber.
8	77. 0	34	9. 97	2. 39	4. 59	39. 3	June 28	Senate chamber; clear weather.
9	77. 9	32	10. 26	3. 28	3. 90	33. 4	June 28	Senate chamber.
10	77. 9	32	10. 26	3. 28	3. 90	33. 4	June 28	Smithsonian laboratory.
11	78. 8	30	10. 55	3. 17	4. 22	36. 1	June 29	Do.
12	77. 9	34	10. 03	3. 49	3. 69	31. 6	June 59	Senate chamber.
13	78. 8	36	10. 55	3. 80	3. 58	30. 7	June 29	Senate chamber; clear weather.
14	78. 8	36	10. 55	3. 80	3. 58	30. 7	June 29	Senate chamber.
15	78. 8	30	10. 55	3. 17	4. 22	36. 1	June 29	External air, Capitol portico.
16	77. 0	54	10. 00	5. 40	1. 60	13. 7	June 30	Smithsonian laboratory,
17	78. 8	48	10. 55	5. 06	2. 32	19. 9	June 30	External air, Capitol portico.
18	78. 8	48	10. 55	5. 06	2. 32	19. 9	June 30	Do.
19	78. 8	62	10. 55	6. 54	0. 84	7. 2	June 30	House of Representatives; storm.
20	78. 8	62	10. 55	6. 54	0. 84	7. 2	June 30	House of Representatives.
21	78. 8	62	10. 55	6. 54	0. 84	7. 2	June 30	Do.
22	78. 8	62	10. 55	6. 54	0 84	7. 2	June 30	Do.
23	88. 2	51	14. 04	7. 16	2. 67	22. 9	July 2	Smithsonian laboratory.
24	78. 8	80	10. 55	8. 44	Above 70	.....	July 2	Smithsonian laboratory; storm.
25	84. 2	71	12. 45	8. 84	.....	.....	July 2	External air, Capitol portico.
26	82. 4	74	11. 79	8. 72	Above 70	.....	July 2	Senate chamber.
27	84. 2	71	12. 45	8. 84	.....	.....	July 2	Do.
28	84. 2	71	12. 45	8. 84	.....	.....	July 2	Do.
29	82. 4	71	11. 79	8. 37	.....	.....	July 2	Do.
30	84. 2	71	12. 45	8. 84	.....	.....	July 2	Do.
31	84. 6	71	12. 58	8. 93	.....	.....	July 2	Do.

3. *Table of humidity*—Continued.

Number of experiment.	Temp. air, Fahrenheit.	Relative humidity; saturated air = 100.	A cubic foot of air—(grains of water.)			60,000 cubic feet per minute require pounds of water—	Date.	Locality.
			Can contain at the temperature—	Does contain—	Requires for a relative humidity of 70—			
	°						1864.	
32	82.4	74	11.79	8.72	0.0	.....	July 2	Senate chamber.
33	84.2	68	12.45	8.46	0.26	2.2	July 2	Do.
34	80.6	74	11.15	8.25	Above 70	.....	July 2	Stairs ventilator to Senate gallery.
							1865.	
35	61.9	46	6.23	2.87	1.49	*12.8	Jan. 24	Senate post office.
36	70.2	32	8.04	2.57	3.05	26.1	Jan. 24	Do.
37	70.9	31	8.23	2.55	3.21	27.5	Jan. 24	Do.
38	70.5	33	8.12	2.68	3.60	25.7	Jan. 24	Do.
39	72.0	27	8.52	2.30	3.66	31.3	Jan. 24	Senate chamber gallery.
40	72.3	27	8.60	2.32	3.70	31.7	Jan. 24	Do.
41	29.8	56	1.95	1.09	0.28	†2.5	Jan. 24	External air to Senate fan.
42	31.3	58	2.07	1.20	0.25	2.1	Jan. 24	External air, Capitol portico.
43	33.8	65	2.27	1.48	0.10	1.0	Feb. 8	External air, Smithsonian laboratory.
44	33.8	65	2.27	1.48	0.10	1.0	Feb. 8	Do.
45	33.8	65	2.27	1.48	0.10	1.0	Feb. 8	Do.
46	30.6	55	2.01	1.11	0.30	2.5	Feb. 9	External air to Senate fan.
47	30.6	55	2.01	1.11	0.30	2.5	Feb. 9	Do.
48	30.6	55	2.01	1.11	0.30	2.5	Feb. 9	Do.
49	70.9	20	8.23	1.65	4.11	35.2	Feb, 9	Senate chamber.
50	70.9	20	8.23	1.65	4.11	35.2	Feb. 9	Do.
51	68.0	21	7.49	1.57	3.68	31.5	Feb. 9	Do.
52	68.0	21	7.49	1.57	3.68	31.5	Feb. 9	Do.
53	64.0	27	6.58	1.78	2.83	24.3	Feb. 9	Do.
54	64.0	27	6.58	1.78	2.83	24.3	Feb. 9	Do.
55	69.8	44	7.94	3.49	2.07	17.7	Feb. 15	Room in the Smithsonian Institution.
56	35.2	100	2.39	2.39	Saturat'd.	Sat.	Feb. 16	External air to the fan, House of Representatives.
57	35.2	100	2.39	2.39	Saturat'd.	Sat.	Feb. 16	Do.
58	72.7	46.5	8.71	4.05	2.05	17.5	Feb. 16	House of Representatives.
59	72.7	46.5	8.71	4.05	2.05	17.5	Feb. 16	Do.
60	70.9	46.5	8.23	3.83	1.93	16.5	Feb. 16	Do.
61	70.9	46.5	8.23	3.83	1.93	16.5	Feb. 16	Do.
62	68.4	48	7.59	3.64	1.67	14.3	Feb. 16	Do.
63	68.4	48	7.59	3.64	1.67	14.3	Feb. 16	Do.
64	65.2	57	6.84	3.90	0.89	7.6	Feb. 17	Sleeping apartment, afternoon.
65	68.4	46	7.59	3.59	1.72	14.7	Feb. 18	Sleeping apartment next morning.
66	37.4	67	2.60	1.74	0.08	0.7	Feb. 24	External air to Senate fan.
67	37.4	67	2.60	1.74	0.08	0.7	Feb. 24	Do.
68	37.4	67	2.60	1.74	0.08	0.7	Feb. 24	Do.
69	66.9	31	7.23	2.24	2.82	25.6	Feb. 24	Senate chamber.
70	66.9	31	7.23	2.24	2.82	25.6	Feb. 24	Do.
71	70.9	28	8.23	2.30	3.46	29.7	Feb. 24	Do.
72	72.3	28.5	8.65	2.45	3.57	30.6	Feb. 24	Do.
73	72.3	28.5	8.65	2.45	3.57	30.6	Feb. 24	Do.
74	36.7	93	2.53	2.35	Above 70	.....	Feb. 25	External air to the fan, House of Representatives.
75	69.0	43	7.74	3.33	2.09	17.9	Feb. 25	Hall of Representatives.
76	69.0	43	7.74	3.33	2.09	17.9	Feb. 25	Do.
77	69.8	41	7.94	3.26	2.30	19.7	Feb. 25	Do.
78	69.8	41	7.94	3.26	2.30	19.7	Feb. 25	Do.
79	51.4	49	4.29	2.10	0.90	7.7	Feb. 27	External air to the fan, House of Representatives.
80	71.6	37	8.41	3.11	2.78	23.8	Feb. 27	Hall of Representatives.
81	71.6	35	8.41	2.94	2.94	25.2	Feb. 27	Do.
82	71.6	35	8.41	2.94	2.94	25.2	Feb. 27	Do.
83	71.6	35	8.41	2.94	2.94	25.2	Feb. 27	Do.
84	64.2	34	6.62	2.25	2.38	20.4	Mar. 28	External air, top of dome.
85	64.2	34	6.62	2.25	2.38	20.4	Mar. 28	Do.
86	65.0	35	6.80	2.38	2.38	20.4	Mar. 28	External air at the ground.
87	68.0	60	7.49	4.49	0.75	6.4	Mar. 31	Public schools,
88	68.0	60	7.49	4.49	0.75	6.4	Mar. 31	Public schools,
89	68.0	60	7.49	4.49	0.75	6.4	Mar. 31	Public schools,
90	74.0	63	9.08	5.72	0.64	5.5	Mar. 31	Public schools,
91	75.0	60	9.67	5.80	0.97	8.3	Mar. 31	Public schools,
92	75.0	44	9.67	6.19	0.58	5.0	Mar. 31	Public schools,

Temp. of external air 59°, rel. h. 72.

* That is, for air of a temperature of 29°.8 Fahrenheit, or a temperature of 70°, the air would require more in proportion to its expansion.

† The ventilation for the Senate is 30,000 cubic feet of air per minute.

II. EXPERIMENTS UPON THE HUMIDITY OF THE CAPITOL EXTENSION

Embrace a series of ninety-two observations made in the summer and in the winter. Those of the summer, Nos. 1 to 34, inclusive, illustrate admirably the condition of the air furnished by the ventilating apparatus at that season.

The summer experiments.—On June 27, 1864, after a prolonged dry period, the temperature of the air at an open window of the Smithsonian laboratory, at noon, was 90°.5 Fahrenheit. At 2 p. m. a storm was approaching, and the air had a temperature of 86°.9. The relative humidity had increased from 47 to 51. During the experiments in the Senate chamber the storm burst upon us, but was of short duration. The relative humidity in the chamber rose, and the temperature fell with the storm; the former was at its maximum (Ex. 4) at 77, and the temperature reached its minimum at 82°.4. At the commencement of the observations it would have taken twenty-seven pounds of water per minute to have given to the air of the Senate chamber the maximum relative humidity for comfort, viz, 70. The necessity for water was entirely obviated at the time of Experiment No. 4, and when the examination was completed the humidity was within the mean amount for health. I watched the condition of the Senators while the relative humidity was increasing, and although it was not very low in the commencement, as it had been gradually increasing all the morning, I could not fail to observe their expressions of relief and comfort (in which I shared) at the changed hygrometric state of the atmosphere, the temperature having at the same time fallen 3°.6 Fahrenheit.

On July 2 (Ex. 23–34) there was another storm which commenced before I reached the Senate. Before the storm the temperature of the air at a window of the laboratory was 88°.2, its relative humidity 51. As the storm was ceasing, at the same place, the temperature was 78°.8, the relative humidity 80. At 3 p. m. the external air at the Capitol was 84°.2, and the relative humidity 71. The temperature and humidity were the same in the chamber as in the external air; but at the registers, through which the fresh air entered the Senate chamber, the temperature was slightly lower, and the humidity a little higher.* This air was very comfortable.

On June 30 (Ex. 16-22) the air of the Representatives' hall was examined under the disturbing influence of a storm, which gave a sufficient relative humidity to the atmosphere.

On June 28 and 29 (Ex. 6–15) the air of the Senate chamber was examined during clear weather, the temperature of the air being high, but not excessive for summer. The temperature and humidity in the chamber and in the external air were nearly alike, and the humidity was very low.

A jet of water in one of the air-ducts during these summer observations cooled the air in the duct from one to two degrees, but did not suffice to lower the temperature of the apartment below that of the external air.

It will be observed from Table 1 that the mean relative humidity at Washington at 2 p. m., for 5 years, in June, is 57.4, and that the minimum has fallen as low as 22. The summer experiments show that the air of the legislative halls may be made cooler and more pleasantly moist in the summer by the judicious and *sufficient* evaporation of water. It must be sufficient to produce the desired effect. It must be employed with judgment, and *not added* when the air has a high relative humidity, for in such a case it would communicate too much moisture, and might even introduce a portion in the form of mist, to be deposited upon the walls. For example, with the temperature (Ex. 1) at 90°.5, the evaporation of twenty-nine pounds of water per minute would raise the humidity to its healthful maximum *at that temperature;* so much, indeed, would not be needed, for this evaporation would occasion a fall of the temperature several degrees.

It is evident that the evaporation of any more water at the time of Experiment 4 would be hurtful. To add water, whether in winter or summer, requires *intelligent and watchful industry,* aided by a proper psychrometer. Fortunately the latter desideratum has been supplied by an invention of Mr. William Edson, who has contrived a hygrometer which gives at any time the dew-point and relative humidity by a mechanical arrangement, obviating a recourse to tables or calculations.

An objection has been made to the heating action in summer of the terrace from which the air is drawn. The experiments have not given any indication of such heating action, nor was it to be expected. The warm pavement radiates its heat into space, and does not raise the temperature of the air upon it to any considerable extent. This may be *seen* by looking over a similar heated surface toward the sky. The hot air may be perceived by its tremulous motion, which arises from the different refrangibility for the rays of light of the unequally heated strata of air. It will be noticed that this elevation of temperature does not extend more than a few feet above the ground. I have not found the terrace, nor the short vertical shafts by which the air enters the fan-room, in a clean condition. They ought to be maintained scrupulously neat, and in the summer time should be washed off with the hose at least once daily.

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* There was a small jet of water in the air-duct.

The winter experiments are very interesting, and indicate the cause of the complaints which some have made as to the ventilation. They demonstrate that the difficulty lies in a deficiency of moisture in the air. The "*absolute*" dryness of the air in winter is great, and its "*relative*" dryness is vastly increased after it has been raised to the temperature requisite for heating the halls. It will not be necessary to take up the results *seriatim* to prove this. A glance at the table will show how low the degree of relative humidity is. Even when, as in Ex. 56–61, the relative humidity of the external air is 100, that of the halls is below the healthy minimum; and at times the moisture falls to 20. The mean relative humidity at 2 p. m., for the external air of the five Januaries of Table 1, is 67.

The remedy for this defect consists in adding to the air of the halls from sixteen to thirty-five pounds of water per minute for a ventilation of 60,000 cubic feet of air per minute.

This moisture must, as was said for the summer experiments, be added intelligently. Too much water would be as injurious as too little.

A sufficiency of moisture would enable a somewhat lower temperature to be maintained in the halls. The moisture might be added by the cautious injection of steam. A commission of scientific men (Peclet's nouveaux documens) proposed to maintain the air of the Hospital du Nord at a relative humidity of 50 by the addition of steam. Some of the heating coils in the Capitol extension were originally provided with steam-cocks for the same purpose. I think that the rapidity of the current in the present air-ducts would render a sufficient hydration of the air, without carrying the water into the halls in the form of mist, impossible. To effect this object, therefore, would require a much larger chamber in which the air-current could pass with diminished velocity and be mingled with steam* in the winter time, and with water in the summer. The jet of water in the air-duct, in the experiments of last summer, was insufficient and did not cause a perceptible increase of the relative humidity of the halls.

The following experiment, performed on February 23 to 27, gave a similar result:

An iron pan, of 60 square feet in surface, was filled with water and placed in the (heated) main air-duct of the House of Representatives. The water was warmed by steam-pipes. With an average steam pressure of 24 pounds, and a temperature of the water equal to 172° Fahrenheit, 74.8 gallons of water were evaporated in five hours, which is equal to 14.96 gallons† per hour and 0.25 gallon = 2.08 pounds per minute. The moisture in the hall was determined upon February 25, with the evaporator in action, and again upon February 27, the heat having been excluded from the evaporator from the afternoon of February 25. As, by an oversight, the *water* remained in the tank, the experiment was less decided than it would otherwise have been, since the current of dry, warm air must have taken up water in the experiment of February 27.

To ascertain the effect of this evaporation it will be necessary to calculate the amount of water which the air of the halls receives from the atmosphere and from other sources.

In this calculation I have neglected the barometric pressure, which did not vary much from its normal, and also the change of volume of the air due to the tension of aqueous vapor, which will not influence the results materially.

I have used $\frac{1}{460}$ as the expansion of air per Fah. degree from 0° Fah. In Experiments 46 and 49 a cubic foot of the external air contains 1.11 grains of water at 30°.6 Fah., and by expanding to 70.9° (the temperature of the Senate chamber) a cubic foot would contain 1.03 grains of moisture; but the air of the Senate contains 1.65 grains; hence 0.62 grains of water have been added to it by the breath of the audience, by the absorption of water from the ground through the air-duct, and from other sources. Since a thousand men would exhale 12,000 grains of water per minute, they would introduce into the 60,000 cubic feet of air furnished by the fan per minute 0.2 grains of moisture per foot, which leaves 0.42 grains to be attributed to other sources than the exhalation of the audience.

In Experiments 74 and 75, upon the moisture of the external and internal air at the House of Representatives, with the evaporator in action, out of the 3.33 grains of water per cubic foot of air of the hall, 2.21 are present from the external air and 1.12 grains have been added from other sources. If the same conditions exist as in Experiments 46 and 49, 0.62 grains of water have been furnished by the breath, &c., and 0.5 grains by the action of the evaporator.

In Experiments 79 and 80, in the House of Representatives, the evaporators being filled with *cold* water, in a cubic foot of air, out of the 3.11 grains of water present, 2.02 are due to the moisture of the external air and 1.09 grains to the action of the hot air over the water, to the breath, and to other sources; hence 1.09 — 0.62 = 0.47 are due to the *cold* evaporator. The difference between these two experiments is 0.03 grains of water per cubic foot. If we compare the experiments of the House of Representatives alone we have for the evaporator, with heat, 1.12 grains; without heat, 1.09 grains;

Vide Antozone, p. 92.

† According to the observation of the engineer, Mr. Jacob D. Forney.

difference, 0.04 grains per cubic foot of air. As the influence of *heat* upon the evaporation of water in the tank is very considerable, it appears that the benefit to the hydration from the evaporator is very small.

For a ventilation of 60,000 cubic feet per minute, in Experiment 49 in the Senate, 35.2 pounds of water per minute are required to effect a relative humidity of 70, or half that quantity for a ventilation of 30,000 cubic feet.

In Experiments 75 and 80, in the House of Representatives, this quantity of water amounted to 17.9 pounds with the active evaporator, and to 23.8 pounds without it.

It is certain that the hydration of the air will involve, in the winter, a considerable expenditure of fuel for a powerful ventilation; but the hydration is as necessary to health and comfort as the warmth.

The following is an approximate calculation of the amount of coal needed to yield to the air of the Senate a relative humidity of 70, based upon the data of Experiments 51 and 52:

Mr. Joseph Nason (Ex. Doc. No. 20, 36th Cong., 1st session, p. 10) estimates, upon the assumption that 1 pound of coal will evaporate 7½ pounds of water, that 7.33 tons of coal will be required per day, of 24 hours, to produce an agreeable temperature in the hall of Representatives, with a ventilation of 50,000 cubic feet of air per minute. In the Senate, for a ventilation of 30,000 cubic feet, according to the same calculation, 4.06 tons of coal would be required for 24 hours. By Experiment 51, 31.5 pounds of water per minute would be needed to communicate a relative moisture of 70 to 60,000 cubic feet of air per minute, or 15.75 pounds for a ventilation of 30,000 cubic feet. This quantity of water would require 2.1 pounds of coal per minute, or 1.35 ton per 24 hours. But the air required 4.06 tons for heating it, which numbers are in the proportion of 1 to 3.

The best ventilation and hydration cannot suit every individual. In an audience some will need more moisture, and some less heat, than others, and a mean, adapted to the wants of the majority, must be maintained. It is somewhat with warming and ventilation as with civilized society—a portion of individual comfort must be resigned to secure the benefits of civilization to the community.

V. MISCELLANEOUS SUBSTANCES IN THE ATMOSPHERE.

In addition to the principal constituents of the atmosphere which have been treated in this report, there are others which exist in minute proportion, but which, doubtless, have a decided influence upon health.

Müilder observed that a flame of hydrogen gas, burning in breath from the lungs, did not exhibit in the spectroscope the reaction of sodium, although the air, before breathing, gave the same in a decided manner; and he infers that the lungs act as a filter for the small quantity of chloride of sodium floating in the air. May not other solids or gases, supposed to be innocuous, be thus absorbed to the detriment of our health? The following is a brief account of some of these constituents of the atmosphere:

I. AMMONIA.

Ammonia is always contained, in small proportion, in the air, and has been supposed by Liebig and others to perform an important function in vegetation.

Horsford, (Am. Asso. for Advancement of Science, 1849, p. 124,) in an examination of the atmosphere for this constituent, obtained, as a result of experiments, from 1.2 to 47.6 parts of ammonia in one million parts of air, the alkali being in larger proportion in July and least in December. No difference in the amount was detected in the air collected on the sea-coast during an east wind compared with the air of a densely-populated locality in Boston.

Pierre (Liebig and Kopp, Jahresbricht v, p. 356) gives, as the result of four months' observation in the winter at Caen, 3½ millionths of ammonia, by weight, in the atmosphere. The same chemist, by a subsequent (Comptes Rendus, xxxvi, 694) examination of the air for nine months, at the same locality, found ¼ of a millionth part of ammonia.

Bineau, (Ann. de Ch. et de Phys., [3] xlii, 462,) in a series of experiments performed at Lyons and at Caluire, in the neighborhood, during 1852–'3, found that at the former place the mean annual amount of ammonia in the air was between ¼ and ⅓ of a millionth, while in Caluire it was in winter 40 and in the summer 80 billionths in weight.

The following proportion by volume of ammonia in one million *volumes* of air have been given by different observers: Graeger investigated the air of Alsace; Kemp, that of Ireland, during two summer days, at an elevation of 300 feet above the sea level; and Fresenius at Wiesbaden, Germany, during forty days of changeable weather.

Table of volumes of ammonia in one million volumes of air.

Observer.	Ammonia, NH_3.	Oxide of ammonium, NH_4O.	Carbonate of ammonia, $NH_4O\ CO_2$.
Graeger	0.333	0.508	0.938
Kemp	3.880	5.610	10.370
Fresenius, day	0.098	0.153	0.283
Fresenius, night	0.169	0.257	0.474
Fresenius, mean	0.133	0.205	0.379

The ammonia in the first column is *equivalent* to so much oxide of ammonium and carbonate of ammonia as stated in the second and third columns.

II. ACIDS IN THE AIR.

Dr. R. Angus Smith (Qr. Jour. Chemical Society, xi, p. 209) observed at the sea-side (Blackpool) a slight degree of acidity in the air, since blue litmus paper had its color somewhat diminished by exposure over night to the air; but in Manchester the reagent became red in half an hour, and sometimes in ten minutes.

The same chemist examined the smoke from chimneys, and found in 100 cubic feet (reduced to 65° Fahrenheit) the following amount of acid in grains:

Specimens of smoke.	Sulphurous acid.	Equivalent to hydrate of sulphuric acid.
1	16.260	24.050
2	23.850	36.522
3	5.322	8.150
4	5.271	8.072
Mean	12.651	19.199

From a determination of the sulphur in coal, and from the analysis of rain for its acid, Dr. Smith makes the following calculations:

Sulphur, equal to one per cent. of the coal burned in Manchester, would give an amount of 61,245 tons of sulphuric acid per year. Over an area of 16 miles, and with a rain-fall three feet deep, one thousand tons of sulphuric acid fall with the rain in a year, which is only about 1.588 per cent. of the quantity produced. Dr. Thompson always found in the air of London sufficient sulphuric acid to give an acid reaction to water through which it was passed. These acids (sulphurous and sulphuric) are always found in the air of towns where coal is burned, and are not considered injurious, but rather beneficial, as tending to arrest putrefaction.*

III. ORGANIC MATTER IN THE AIR.

Dr. Thompson (Appendix to Report of the Committee for Scientific Inquiry in Relation to the Cholera Epidemic of 1854, p. 110, London) appears to have first recognized the importance of organic matter as a constituent of the air of towns. He found that the air of London, when passed through oil of vitriol, communicated a dark tinge to it, and if large quantities of air were passed through distilled water the inevitable result was the formation of fungi.

Dr. R. Angus Smith (Op. Cit., p. 217) tested the air for organic matter by ascertaining the amount of air necessary to discharge the color of a solution of permanganate of potash, of which the strength was obtained by decomposing a known weight of sugar or of oxalic acid. Supposing the sugar and the organic matter in the air to be decomposed by exactly the same amount of permanganate, which will not involve a great error, he obtained the proportion of organic matter existing in the air.

* Thompson.

The following table of his results is taken from the Chemical Gazette of 1859, p. 176:

	Grains of organic matter in 100 cubic inches of air.
Manchester, 131 experiments	52.9
Manchester, All Saints, east wind, 37 experiments	52.4
Manchester, All Saints, west wind, less smoky	49.1
Manchester, All Saints, east wind, 16 experiments, above 70° Fahrenheit	58.4
Manchester, All Saints, east wind, 21 experiments, below 70°	48.0
Manchester, in a house kept rather close	60.7
In a pig-sty, uncovered	109.7
Thames, at city, after warmest weather of 1858—no odor perceived	58.4
Thames, Lambeth	43.2
Thames, Waterloo bridge	43.2
London, 6 experiments during warm weather	29.2
In the fields south of Manchester	13.7
In the fields north of Highgate—wind from London	12.3
North Italy—warm weather in the fields	6.6
Near Milan—moist fields	18.1
London, after a thunder-storm	12.3
German Ocean—calm, 60 miles from Yarmouth	3.3
Hospice Mt. St. Bernard—fog	2.8
North Lancashire	2.8
Forest at Chamounix	2.8
Lake Lucerne	1.4

Hoffmann proposes the use of the permanganate of potassa for the purification of the air. Dr. Smith, repeating the experiment of passing ozonized air through blood, confirmed the fact of a decided and remarkable reddening. He thought that he could employ this reaction for determining the comparative proportion of ozone in the air of the sea-coast and in that of Manchester, but found that in the latter place, where the ozone was *less*, the reddening reaction was *much more decided*. Here is a visible effect upon the blood produced by the air of towns, the cause of which is unknown, and which may, operating constantly, act injuriously, and thus account for the superior healthfulness of the country.

IV. MICROSCOPISMS AND GERMS IN THE AIR.

Pasteur (Comptes Rendus, l, 303, 849, and li, 348) filtered air through gun-cotton, and after having dissolved the same by alcohol and ether, examined the insoluble remains. He supposes that germs of infusoria are present in all air, and are the cause of fermentation and putrefaction. H. Hoffman and Van der Broeck (Ann. der Ch. und Pharmacie, cxv, pp. 75 and 288) drew the same inference from their experiments. Schroeder and Deuch, (Id., cix, 35,) and Schroeder, (Id., cxvii, 273,) confirm these views by their results. They found that almost all organic substances, even those of ready putrefaction, such as blood, fibrine, albumen, caseine, sugar, starch, &c., were preserved unaltered when heated to the boiling point in a bottle which was immediately stopped by a loose plug of raw cotton, so that, on cooling, the air entering the bottle would be filtered through the cotton and be deprived of solid substances floating therein. They attribute putrefaction and fermentation to the germs of animalcules suspended in the air; a peculiar kind being required for each kind of fermentation. Schroeder found that these germs were destroyed by a heat of 212° Fahrenheit; but that milk, meat, and yolk of egg contain such as require a very prolonged heat at that temperature, or a higher temperature, viz, that of water boiling under pressure, for their destruction.

By the heretofore received theory of Leibig and others, fermentation is a decomposition incited and maintained by a "ferment," or readily oxidizable body. The motion of the atoms in the decomposing ferment is imparted to the atoms of the fermentable body, causing it to fall asunder into less complex compounds. The germ theory has not yet been accepted definitely; experiments and discussions concerning it are in progress, for which consult Pasteur, Pouchet, Berthelot, Schroeder, Boussingault, Karsten, in the Comptes Rendus, Jour. Pr. Ch., &c., *passim*.

Berthelot (Jr. Pr. Ch., lxxxv, 465, and Comptes Rendus) found that in the alcoholic fermentation of 100 parts of sugar, from 95 to 96 per cent. yielded alcohol, the formation of which could be explained by the "ferment" theory; but the remaining 4 or 5 per cent. of sugar formed from 3.2 to 3.6 of glycerine; from 1.2 to 1.5 of cellulose; from 0.6 to 0.7 of succinic acid, and from 0.6 to 0.7 of carbonic acid, together with fat and other undetermined products. It follows from this that the evolution of carbonic acid is not in an exact equivalent proportion to either the sugar or the alcohol. Pasteur found in the experiments before alluded to of filtering air through gun-cotton, dissolving the latter and examining the residue by the microscope, that it contained starch granules and undefined globules, which seemed to him to be spores. When this residue was

brought into sugar-water, certain known animalculæ and infusoria were developed. The same results were obtained, using asbestos for the air filter, and they were absent when the asbestos had been first ignited, and then exposed to the current of air from which the germs were removed before reaching the mineral. He experimented upon air from different localities with a view of ascertaining the relative proportion of germs capable of producing fermentation. For this purpose he prepared a number of glass matrasses containing fermentescible liquids, hermetically sealed at the boiling temperature. When these were opened in any place a certain quantity of air would rush in, together with whatever germs might be present. The flasks were immediately resealed and put aside, when the presence of the germs would soon be manifested by the phenomenon of fermentation, accompanied by the presence of infusoria.

Of 20 specimens of air in each of the three following series—

1st. In the country, near the ground, 8 contained germs.

2d. Upon the first plateau of the Jura Mountains, 2,600 feet elevation, 5 contained germs.

3d. Upon Montanvert, 6,000 feet high, 1 contained germs.

In the cellar of the Paris Observatory, using precautions against disturbing the ground, no air causing fermentation was found; it was as free from that property as air which had been heated.

All specimens of fresh milk coagulate in from three to ten days, and contain chiefly *vibriones*. If, however, milk be boiled for a prolonged period, and heated air, deprived of its germs, be suffered to enter the vessel, it does not ferment. The oxygen of the air attacks the fat, which becomes lumpy and tallowy; (see Wetherill on Adipocire, Transactions Am. Phil. Soc., vol. xi;) but the albumen from which, according to the former theory, a ferment is generated, remains unaltered. The spores of the mucidineæ retain their fermentative power at a temperature of 248° Fahrenheit, but are killed by a half an hour's exposure to a temperature of 266° Fahrenheit. In water, however, they lose their vitality at the ordinary boiling temperature.

Karsten (Liebig and Kopp, Jahresbericht, 1862, p. 106,) discovered an oxidizing power in the air which he deems of value in relation to the question of atmospheric miasms. He found that dry, non-nitrogenized bodies such as sugar, starch, gum, wax, rosin, caoutchouc, cork, &c., are slowly oxidized in the air at ordinary temperatures, with the formation of carbonic acid and water. When the oxygen is not present in excess, the additional products of decay (rottenness) arise. After depriving air of carbonic acid, he passed 60 liters of it, in single bubbles, through a series of vessels, (in which all joints of cork and caoutchouc were avoided,) filled alternately with air free from carbonic acid, and with lime water, and thus always found a precipitate of carbonate of lime, which he attributes to an oxidation of organic matter in the air. He believes that in Elliot and Storer's observations on the difficulty of depriving air of carbonic acid the presence of this gas arose from the oxidation of the joints of cork and caoutchouc; for when air is first passed through a tube containing red-hot oxide of copper, by which its organic matter is burned, and then freed from carbonic acid by caustic potash, no precipitate in the lime-water announces the presence of carbonic acid. By this oxydizing action of the air, due probably to ozone, a self-purification of the atmosphere is constantly taking place.

V. DUST SUSPENDED IN THE AIR.

Pouchet (Comptes Rendus, xlviii, 546) made an extensive microscopic examination of the dust deposited from the air in different places. Some of it had accumulated for ages; as in the ruins of Thebes; in the tomb of Rameses II; in the sepulchral chamber of the great pyramid; in the temple of Venus Athos, at Philé; in the temple of Serapis; at Pouzzoles; in the head of a mummied dog from the pits of Beni-Hassan, and in the cabinet of a Jewish antiquary, at Cairo. Some of the dust of less ancient buildings was also examined, viz, of the tower of St Georges d'Amboise, at Rouen; interior of the Abbey Fécamp; laboratory of the Museum of Natural History, at Rouen, and other places. From the results of thousands of such observations substances were detected by the microscope, consisting, 1st, of mineral origin, being the detritus of the rocks of the locality; 2d, of animal nature, as the dried remains of small infusoria of different kinds; fragments of the antennæ of coleoptera; scales from the wings of nocturnal and diurnal butterflies; hairs of different animals, some of them died red, blue, or green, and derived from clothing; hair of rabbits and bats; epithelial scales; spiders' web, &c.; 3d, of vegetable origin, consisting of fragments of the tissue of various plants, the ligneous fiber in small quantity, but the fragments of cells and vessels being of greater frequency; many vegetable hairs or filaments; pollen; cryptogamic spores; many filaments of cotton, for the most part colorless, but sometimes dyed and proceeding from clothing.

Finally, wherever M. Pouchet's observations extended, whether of ancient or modern dust, the presence of *starch*, of different plants, but especially of wheat, was nearly always demonstrated. The larger starch granules were rare; those detected were of

ovoidal or spherical shape, measuring from 0.014 to 0.028 millimeter in diameter, but more frequently of the latter dimension. The ancient starch polarized light and had all of the physical and chemical properties of recent starch; some of it was of a violet tint, as if by the action of iodine. On the summits of mountains and on other elevated places starch was rarely or not at all detected. Pouchet *compared* the air of different localities by collecting and examining microscopically the solid matters floating in the volume of one cubic decimeter of the air, and found the air of towns loaded with a vast quantity of organic *débris*, and of objects employed in civilized life. In the marshlands and on the plains he found an excess of vegetable particles. In the open sea, far from the shore, and on the mountains, above the zone of habitations, he found, even in a volume of ten cubic decimeters, the atmospheric corpuscules to be very sparse. At sea, however, between Sardinia and Sicily, in the middle of the Ionian sea, or upon the summit of Etna, a cubic decimeter of air always exhibited "immense legions" of ciliated infusoria.

VI. MICROSCOPIC EXAMINATION OF THE AIR OF THE CAPITOL.

On February 20, 1865, glass microscope slides were hung from the ventilating apertures in the House of Representatives, so that they remained suspended horizontally six inches below the ceiling. Two slides, tied back to back, were coated with glycerine and placed at the east end, and two similar ones at the west end of the ceiling. The position of the slides was such that on two dust could fall or settle gradually, and against the remaining two the dust would rise vertically. On March 8 of the same year the slides were examined. No difference was observed between the slides from the east and west end of the ceiling.

Those upon which the dust had settled were coated very perceptibly by it. Examined by the microscope it proved to be principally fine quartzy and earthy matter arising from the streets, the former exhibiting its characteristic colors in polarized light; there were also animal hairs, some of them dyed, (fibers from the carpet,) and epithelial scales from the mouth, starch granules, &c.

Very little matter was deposited upon the slides containing glycerine upon their inferior surface. The objects detected by the microscope were epithelial scales from the month, and starch granules, which exhibited beatifully the black cross by polarized light. Nothing having the appearance of spores was detected in these examinations.

VI. OZONE.

An examination of air for the purposes of ventilation would scarcely be complete without allusion to ozone—a body which has engaged the attention of chemists for the past twenty-five years, but of the true nature of which, notwithstanding the labor of research bestowed upon it, we know so little.

I. NATURE OF OZONE.

The air surrounding the electral machine when in action, and air confined with moist phosphorus, has a peculiar penetrating odor, and exerts a decomposing action upon the iodide of potassium.

These two cases have been referred to one cause—viz, the production of ozone, which is supposed by some to be an allotropic modification of oxygen, analogous to what has been observed in sulphur, phosphorus, carbon, and some other bodies, while others assign for the rationale of the phenomenon a decomposition of ordinary oxygen into its hypothetical constituents, + 0 and — 0. Ozone is the most active oxydant known; it acts energetically by mere contact at the ordinary temperature, carrying bodies to the highest degree of oxidation of which they are capable. Thus silver is converted into the peroxide; phosphorus into phosphoric acid; arsenic into arsenic acid; sulphur, sulphurous acid, and sulphuretted hydrogen, into sulphuric acid; lead and litharge into the peroxide; protoxide of manganese into the peroxide; sulphide of lead into the sulphate; ammonia into nitrate of ammonia, &c.

It also oxidizes many organic bodies; when breathed in sufficient quantities, excites powerfully the organs of respiration, producing cough, and speedily killing smaller animals.

Fortunately it cannot be present in atmospheric air in large quantity; $\frac{1}{1300}$ of this body being the largest proportion with which we have been able to load the air. Substances upon which ozone acts withdraw it from the air.

Andrews and Tait (Phil. Trans., 1860, 113) found that oxygen through which quiet electric discharges were effected experienced a diminution in volume of $\frac{1}{12}$; that when left to itself, at ordinary temperatures, it expanded again very slowly; at 212° Fahrenheit it expanded more rapidly; at 518° Fahrenheit it regained its original volume, and lost all ozone reaction. This, then, is the temperature at which ozone is completely *destroyed*.

The presence of ozone is indicated by its action on paper imbued with the tincture of gum guiacum, which it turns blue, or with paper dipped in a mixture of water and starch, with $\frac{1}{500}$ of its weight of iodide of potassium and dried. The ozone liberates the iodine, which acts upon the starch, producing the characteristic blue color of the iodide of starch.

Certain bodies which have been called "ozone-carriers" possess the peculiar property of absorbing ozone, and yielding it to other bodies upon which it is capable of acting.

Oil of turpentine,* under the influence of light, plantinum black or sponge, and the *blood corpuscules*, possess this property, so important in its physiological relations. Schoenbein found that air containing $\frac{1}{400000}$ of ozone smelled sensibly of it, and is of the opinion that there exists a connection between the amount of ozone in the atmosphere and catarrhal affections. Gorup v Besanez (Ann. der Bh. und Pharmacie, cxxv, 207) acted upon a variety of organic substances by ozone, and studied their products of oxidation. He found that, in the presence of carbonate of soda, grape and cane sugar (the latter, with greater difficulty) were perfectly oxidized by ozone, carbonic and formic acids being the sole products. The volatile fatty acids are also perfectly oxidized, while the fixed ones, such as palmitic and stearic, are acted upon with difficulty. The fats alone are not readily attacked, but in presence of an alkali they are quickly decomposed, the ozone acting upon the glycerine. This author draws important deductions from the action of ozone on organic bodies in his Lehrbuch der Chemie, vol. iii, *passim*.

Contradictory conclusions have been drawn with reference to the relation of the atmospheric ozone to health and disease. Mr. Smallwood, in a long series of experiments upon the ozone of the atmosphere in Canada during the prevalence of the cholera and at other times, favored the idea of a deficiency of ozone during the epidemic.

During the Crimean war the surgeons of the French army established the facts that—

1. The more the ozone reagent papers were colored in the air the more numerous were the sick who were taken to each of the hospitals.
2. The higher the temperature, there were *fewer* entries of sick and fewer deaths.
3. At the three observatories the ozone curve was essentially the same; and
4. The curve for the temperature was also the same.
5. At observatory No. 1 the less the ozone the greater was the number of deaths; while at observatory No. 2 it was the reverse.

Dr. Moffat (Rep. British Association, 1861) concludes, from a large number of observations, that the ozone in the atmosphere plays an important part in controlling or permitting epidemics, which it effects by removing the poison from the air. During the prevalence of the cholera at Newcastle, in 1853, the ozone was at its minimum. From August 24 to September 11, 1854, ozone was only once perceived, and then in a minimum quantity. The cholera was then at its height in London. Dr. Moffat states that, on the 10th of September, with a south wind, the ozone increased and the cholera cases diminished.

Bineau (Ann. de Ch. et de Phys., [3] xlii, 462) detected ozone but seldom in the air of Lyons, although he observed it always in the air of the neighboring country. He attributes the deficiency in the city to the action of organic substances in the air.

Pless and Pierre (Wien, Acad. Bericht, xxii, 211) discovered 0.02 milligram of ozone in 255 liters of air.

Zenger (Id., xxiv, 78) found, from 12 experiments, from 0.002 to 0.01 milligram in 100 liters of air.

R Angus Smith (Qr. Jour. Ch. Soc., xi, 196) found that the air of Manchester did not react with ozonoscopic paper, nor was there any reaction in the country when the air came from the city, which he attributes to the absorption of ozone by the products of combustion arising from the large amount of coal consumed in the city.

C. Kosmann (Comptes-Rendus, lv, 731) ascertained that in Strasburg, and at a short distance therefrom, there was more ozone in the air of the country than in that of the city. In the city the maximum of ozone was in the day time; in the country it occurred in the night. He found also, by the action upon Schoenbein's test paper, that the green portions of all plants exhaled ozone.

Mr. Carey Lea (Am. Jour. Sci.) discovered that the growth of plants is retarded in an atmosphere strongly impregnated with ozone.

A. Poey (Comptes-Rendus, lvii, 344) found that, in the city of Havana, the ozone reaction diminished with the elevation, while in the country it increased. He found also that the atmospheric moisture influenced the amount of ozone.

J. Boehm (Bericht Acad., Wien, xxix, 409) has given the results of four years' regular observations upon the ozone of the atmosphere made in the city and environs of Prague.

The observations were made with ozonoscopic paper exposed to the atmosphere, observed and changed at 7 a. m. and 7 p. m.; the proportion of ozone being determined by the depth of shade of the color produced.

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*Schoenbein saturated oil of turpentine with ozone to a degree that it had double the bleaching power of good hypochlorite of lime, (bleaching powder.)

Boehm obtained different results with paper prepared from the same formula by different persons, and claims but general conclusions from his observations. He has tabulated his results, and has illustrated them from January, 1857, to March, 1858, by a series of curves representing the relative humidity, rain, snow, or fog, clouded proportion of sky, strength and direction of the winds, and ozone.

From a consideration of these curves it is seen that the ozone bears no relation to the relative humidity, rain or thunder storms, clouds, &c., but is intimately connected with the force and direction of the wind, which was generally from the west, when the phenomenon of ozone was perceived.

Boehm attributes his effect to the position of the observatory in the city of Prague; the easterly winds passing over a portion of that town, which is thickly settled and crowded with factories, the emanations of which deprive the air of its ozone.

In the country and in the suburbs the presence of ozone was found to be constant. The author, without expressing a decided opinion on the relations existing between the presence of ozone in the atmosphere and health, calls attention to the fact that, in Koenigstadt, a place not particularly noted for salubrity, he obtained as decided reactions of ozone upon the healthiest mountains, and that the coloration of the test paper is more decided in Vienna, a city noted for its lung and typhoid fevers, than in Prague, which is ranked justly with the healthiest of towns.

M. Hozeau, of Rouen, inferred, from a series of observations which extended over four years, that the atmospheric ozone is least in February, begins to increase in March, and reaches its maximum in May and June, after which month it diminishes to its minimum in February.

Dr. W. B. Rogers (Am. Assoc., Albany meeting) observed that the action of the city of Boston deprived air passing over it of its ozone.

II. EXPERIMENTS ON OZONE IN WASHINGTON.

The following experiment was performed to ascertain whether the ozonoscopic test might not be increased in delicacy. Some test paper was prepared according to the following formula of Osann: thirty-two grains of starch were rubbed in a mortar with the same amount of cold water; four ounces of water, in which three grains of iodide of potassium were dissolved, were boiled and mixed well with the starch; the whole was boiled again, cooled, and placed in a stoppered bottle. When test paper was needed the bottle was shaken, slips of Swedish filtering paper were dipped in the liquid and dried. This paper was instantly colored of a deep shade when dipped in a bottle of air ozonized by phosphorus. When exposed over night to the external air, at the Smithsonian Institution, the ozone reaction was very decided.

At 3*h*. 30*m*, March 6th, twenty-four liters (6$\frac{1}{3}$ gallons) of air were drawn, by an aspirator, from a hole in a south window of the Smithsonian laboratory; the air being from the south and consequently not passing over the densely populated quarter of the city. The air traversed a drawn-out glass tube and impinged upon a slip of the test-paper contained in a Woulfe's bottle, which was covered with black paper to prevent the bleaching action of the light upon the iodide of starch. The current of air was drawn slowly, so that two and a half hours were needed to aspirate twenty-four liters. The experiment was repeated twice on different days, once keeping the test-paper moist. It was impossible to detect the slightest reaction of ozone. On the night of March 8th ozone reagent papers were exposed to the external air outside of a window of the Smithsonian laboratory, and in a similar position at a dwelling on F street north, between 11th and 12th streets west, in a populous locality of Washington. The papers of the latter position did not give any indication of ozone, but those at the laboratory, exposed to the air of the Smithsonian park, evinced a decided ozone reaction. Hence the air of the public grounds contains ozone when that of the crowded city does not. This experiment was repeated several times with similar results.

III. THE RELATION OF THE VENTILATION OF THE CAPITOL TO OZONE.

The air entering the fans at the Capitol was found by the test-papers to contain ozone, differing in this respect from the crowded city.

On February 28th, at 12*h*. 45*m*. p. m., slips of ozone reagent paper were placed in the current of air entering the fan of the House of Representatives, and also at the ceiling of the hall, in the apertures for ventilation, through which air of the temperature of 77° Fahrenheit was issuing. As a controlling experiment, slips of the same paper were dipped in ozonized air and found to be colored of the same shade. Some of the paper was exposed to the external air at the laboratory. On the subsequent day, at 3*h*. 30*m*. p. m., the papers were examined. Those of the fan-room and of the external air at the laboratory gave a moderate but decided ozone reaction, which was greater in the case of the laboratory papers. The air leaving the hall gave a very slight evidence of ozone, merely enough to see that it was present. The ozone might have been removed from the air furnished by the fan either by the action of the hot coils, or by the

organic matters imparted to the air by the audience. If the heat had not destroyed it, the experiment gave proof that the fan furnished ozonized air to the hall. If the ozone was lost in the hall, it performed thereby efficient service in neutralizing the organic matter in the air which might be injurious. Further experiment was therefore required to ascertain whether the ozone was lost by the heat. Ozonized air, passing through a tube heated above the boiling point of water, is completely deprived of its ozone. On March 8, at 1 p. m., after the adjournment of Congress, slips of test-paper were placed in the main air-duct of the ventilating machinery of the House of Representatives, in the current, some of them immediately in front and the rest in rear of the heated coils. The fan was in action until March 11, and the papers were examined on March 15, at 10*h*. 30*m*. a. m. All of the papers exhibited the reaction of ozone, but it was less intense in the hot air. The closed shutters of a window had been opened inadvertently, suffering diffused daylight to fall upon the papers in the hot air, but the less intense tinge of the latter is not attributable so much to the light as to the heated coils which probably deprived the air of a certain portion of its ozone; the air, however, passes the coils too rapidly to lose much of its ozone by this means. The fact was thus established that *ozonized air* is furnished to the audience in the halls. Ozone could be readily generated in the air-duct by Dr. Delabrousse's plan, employing a spiral wire of platina, rendered incandescent by a galvanic battery; but such provision is unnecessary.

M. Saint Pierre (Comptes-Rendus, lviii 420, 1864) discovered a remarkable production of ozone by the action of certain kinds of ventilating apparatus. He found that test-paper, placed in the tuyere pipe of a blast furnace, gave evidence of ozone in a much stronger manner than when in the external air, and to show that the velocity of the current of air bringing greater quantities of air to the paper was not the cause of the reaction, he placed, at the same time, similar papers on the governor of a steam-engine in a saw-mill. From these and other experiments he concludes that the reaction arises from compressing the air. I have seen no reason for my experiments to suppose that ozone is generated by the action of the fan in the ventilating machinery of the Capitol.

Antozone.—The late researches of Schoenbein, Meissner, and others, have resulted in the discovery of another condition of oxygen, in which it has chemical properties antagonistic to those of ozone, and which has, in consequence, been called "*antozone.*" As this body has probably an important bearing upon the hydration of dry air, it will be necessary to consider it in this report.

Schoenbein discovered that if a few drops of acetate of lead solution be added to diluted peroxide of hydrogen, the peroxide of lead ($Pb O_2$) is formed. The same reaction takes place if ozonized oil of turpentine be employed, or if ozonized oxygen be brought in contact with basic acetate of lead. In these experiments the peroxide of lead is produced by the oxidation of the protoxide of lead by ozone. When the peroxide of lead remains in contact with the peroxide of hydrogen, both are reduced, the result being water, protoxide of lead, and ordinary oxygen.

Schoenbein concluded, therefore, that the oxygen is in a different condition in the peroxides of lead and hydrogen. In the peroxide of lead it exists as ozone, ($Pb O \overline{O}$,) and in other bodies which this chemist grouped together as "*ozonides*," such as peroxides of manganese and silver, permanganic and chromic acids, the oxygen is in the same condition; but in the peroxide of hydrogen the oxygen is contained in a different condition, ($H O, \overset{+}{O}$,) which he calls antozone. In peroxide of barium it is in the same condition, and all of such bodies Schoenbein terms "*antozonides.*" In the conjunction of an ozonide with an antozonide, the different kinds of oxygen neutralize each other to form ordinary oxygen; we have then—

Air	$\overset{+}{O}\ \overset{-}{O}$
Ozone	$\overset{-}{O}$
Antozone	$\overset{+}{O}$
An ozonide	$M\ O, \overset{-}{O}$
An antozonide	$M\ O, \overset{+}{O}$

It was requisite for establishing the correctness of this hypothesis to produce antozone and to investigate its properties; but this body had already been prepared from peroxide of barium and oil of vitriol, and was supposed to be ozone. Schoenbein found that if this peroxide be projected in small quantities in cold monohydrated sulphuric acid, antozone escapes as a gas, mingled with ordinary oxygen, which latter, as he states, is formed from the antozone by the elevation of temperature during the reaction.

Antozone blues the iodide of potassium and starch like ozone, and has a smell like that gas, being more disagreeable. A distinguishing characteristic of antozone is

the formation of peroxide of hydrogen when it reacts with water, which ozone does not occasion. Among the different tests for these gases it is sufficient to note that of a slip of paper soaked with solution of sulphate of manganese, which is rendered brown in ozone from the formation of peroxide of manganese. In antozone not only does this reaction not take place, but a paper browned by ozone is bleached by antozone.

Meissner discovered that air or ordinary oxygen, electrified by Ruhmkorff's coil, well dried, and then passed into water or moist air, gave rise to a mist, or cloud, which was found to be due to the formation of antozone. The cloud could be caused to disappear by contact with drying substances such as oil of vitriol, chloride of calcium, &c., but would form again upon introducing the antozonized air into a moist atmosphere. By standing, the electrified air gradually lost its cloud-forming property, the water being deposited upon the sides of the vessel containing the gases. Meissner regards peroxide of hydrogen as a component of antozone with water; and clouds, or vesicular mist, as a physical aggregate of antozone and steam, in which the chemical attraction of the two is much weakened, if not destroyed. He attributes the gradual disappearance of the cloud to the return of the antozone (by combining with ozone) to its condition of ordinary oxygen. Von Babo attributes the mist to the formation of peroxide of hydrogen, and its disappearance to the precipitation or gradual decomposition of this peroxide. Meissner believes that tobacco, chimney, and gunpowder smoke, and that even the atmospheric clouds are due to antozone, which arises from all processes of oxidation.

While there is much to be learned respecting antozone, the cloud-forming attribute of this body is very interesting in connection with ventilation, and may serve to explain the difficulties which, according to some statements, have been found in communicating moisture to a current of air by means of steam. The escape of steam under favorable conditions is accompanied by electrical phenomena, and the production of ozone and antozone is thus possible. It is conceivable that an antozone cloud thus generated, and not having time while traversing the air-passages to deposit its vesicles of water, might be swept along into the apartment to be ventilated. According to Meissner, water condensing from oxygen or atmospheric air has always the form of vesicles, while in separating from other gases it assumes the condition of solid drops, or rain.

It might be more prudent, before adopting a method to supply to the air of the halls of legislation that amount of moisture in the winter time which is absolutely necessary to the health of the members, to institute a particular series of experiments upon the relations of antozone to the subject.

IV. RESUMÉ.

It follows from the experiments which have been given in detail in this report that—

1. The ventilation of the Capitol is abundant.
2. The air furnished is pure; and
3. It contains more ozone than the air of the
4. The source whence the air is taken is proper; but more cleanliness should be observed upon the terraces, &c., above the surface of which (if any alteration be deemed necessary) the air-shaft should rise not above three feet.
5. The principal defect of the air, and the cause of complaint, is in the hydration. This can and should be remedied.
6. The dust is dependent upon the condition of the streets of Washington; it rises at times above the summit of the dome of the Capitol. It might be removed by the method of hydrating the air in which sprays or films of water are used.
7. An extended research upon the proportion of carbonic acid in the atmosphere of America is needed. It has been performed for Europe; but in America, where the population is less and the vegetation is greater, scarcely anything has been done. Important scientific and practical results may be expected from such a research.

I am, gentlemen, very respectfully, your obedient servant,

CHARLES M. WETHERILL.

THOMAS U. WALTER,
Architect Capitol Extension.
Professor JOSEPH HENRY,
Secretary Smithsonian Institution.

CONCURRENT RESOLUTION authorizing appointment of select committee, passed in the Senate March 18, 1869.

Resolved, That a joint select committee be appointed, to consist of three members of the Senate and three members of the House of Representatives, to examine into the present condition of the Senate chamber and of the hall of the House of Representatives as regards lighting, heating, and ventilation, and their acoustic properties, and the defects and disadvantages existing in the same, and the cost, and the best method of providing remedies therefor; and that they have leave to report by bill or otherwise, and shall report also upon the probable cost thereof.

Concurred in by the House January 18, 1870.

Committee on the part of the Senate:

Mr. NYE, of Nevada.
Mr. ANTHONY, of Rhode Island.
Mr. STOCKTON, of New Jersey.

Committee on the part of the House:

Mr. JENCKES, of Rhode Island.
Mr. SANFORD, of New York.
Mr. SWANN, of Maryland.

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41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 50.

THOMAS H. DOWLING—CLAIM TO YERBA BUENA.

MARCH 3, 1871.—Ordered to be printed and recommitted.

Mr. MAYHAM, of the Sub-Committee on Private Land Claims, made the following

REPORT.

The Sub-Committee on Private Land Claims, to whom was referred the claim of Thomas H. Dowling to the Island of Yerba Buena, respectfully report:

That in September, 1835, the secretary of the late Governor Figueras, then acting as governor *ad interim* of California, gave to Gorham Hyronemo Nye a certificate to the effect that said Nye was the owner of Wood Island, one league distant from the pueblo of Yerba Buena, in the bay of said pueblo, which island is now known as the Island of Yerba Buena; which certificate recited, among other things, that said island was given to said Nye as a compensation for transporting the body of the deceased Governor Figueras from Monterey to Santa Barbara, and assured to him the possession of the same; that said Nye took possession of said island, and occupied the same from that time until September 10, 1849, when he sold the same by parol to Thomas H. Dowling, who thereupon took possession of said island and occupied it until about December, 1864, when said Nye executed and delivered to him a deed for the same; that during the time he so occupied said island said Dowling made valuable improvements thereon by erecting buildings, cultivating and improving the land, and, by docking out into the bay and filling in, extended the area of the same about two acres.

In 1850 President Fillmore gave notice that said island was required by the Government for military purposes, but took no steps toward taking possession of the same further than that of giving said notice.

By the charter of the city of San Francisco that city embraced the entire county of that name; and this island, being within the county of San Francisco, was therefore within the city limits of said city.

In June, 1855, the municipal government of San Francisco passed an ordinance known as the Van Ness ordinance, by which they assumed to cede to all the settlers and occupants of lands within the limits of the city the title to the same, which ordinance provided that the title should vest under the same in the occupants as absolutely as if conveyed by deed.

In March, 1858, the legislature of the State of California passed an act confirming and legalizing said ordinance, and reënacting its provisions in respect to the title to lands within the limits of said city.

In 1864 Congress, by an act approved July 1, 1864, legalized and confirmed the act of the legislature of California aforesaid in relation to the lands within the limits of said city, reserving such lands within the lim its of said city for military and naval purposes as had been or were then occupied by the United States, or might be designated by the

President of the United States within one year after the city limits should be ascertained and recorded in the General Land Office of the United States, for military, naval, or other public uses. No such survey has ever been made or recorded.

On the 12th day of October, 1866, the President of the United States directed the General of the Army, then in command of the military post at San Francisco, to take military possession of said island; and pursuant to said order a detachment of ten United States troops entered upon said island and ejected therefrom by force the said Thomas H. Dowling, and have since that time retained the possession thereof. The island consists of about 150 acres, and is situate in the bay of San Francisco, about one mile from that city, and is claimed to be of no inconsiderable value.

Mr. Dowling insists that he should be restored to the possession of the same upon the following grounds:

1st. That under the laws of Mexico, the certificate made to Nye was a valid inchoate grant, and needed only the confirmation of the departmental assembly or the sanction of the Mexican government to render it a complete title, and but for the acquisition of California by the United States the Mexican government would have been bound to ratify and confirm the same; and that the United States in succeeding to the interest and jurisdiction of Mexico succeeded also to its obligations, and became bound to perfect this grant.

2d. If this certificate to Nye was not valid as an inchoate grant by reason of some defect in its form or informality in its execution, or even want of power in the acting governor to make it, still it was such a claim or color of title as to be the foundation for a valid prescription, it having been received by Nye in good faith for a valuable consideration, and relied upon by him as a title from 1835 to the time of his sale to Dowling, and by Dowling from that time until 1866, when the United States took forcible possession, and that as the civil law was in force in Mexico at the time the United States acquired California, a prescriptive right was good as against the Government.

3d. That if the certificate to Nye was not good as a grant or as the foundation of a prescriptive right to these lands, still the title of Dowling is good as against the United States under the ordinance of the municipality of San Francisco, sanctioned by the legislature of California and the act of Congress of July 1, 1864.

The most convenient method of examining the claims of the petitioner, Mr. Dowling, is in the order in which they are presented; and the first inquiry is: Did Mr. Nye, under the certificate from the acting governor of California, acquire a valid inchoate, legal, or equitable title to this island under the Mexican colonization laws? The Mexican colonization laws, passed in 1818 and amended in 1824, authorized the governors of each state or province in Mexico to grant the petition of Mexicans or foreigners to settle upon and occupy lands for agriculture or pasturage in quantities not exceeding eleven square leagues, and, with the assistance of prefects, to put such settlers in possession, and on the ratification of such grants by the departmental assembly of the Mexican government they became valid titles, and the occupant thereupon became vested with the legal title to the lands so granted.

It is quite apparent that the formal requisites of a grant under this law were not all complied with on the part of Mr. Nye. No petition, as required by the colonization law, seems to have been filed with the governor, and no formal possession given by a magistrate to the occupant, nor were any of the acts done ever confirmed by the departmental

assembly. It follows, therefore, that Mr. Nye acquired no valid legal title to the land in question of the Mexican government, and cannot, as a strict legal right, demand of the United States a patent on the ground that he acquired of Mexico a valid inchoate title, which that government was bound to perfect. Had he such a right as equity would enforce as between individuals and as the United States in good faith is called upon to respect?

It is a well-settled principle in equitable jurisprudence that contracts for the alienation of land, although not valid as law, may be enforced in equity when substantial justice requires it. The court will always have an eye to the substantial justice of the case. Generally, delivery of possession, and making beneficial improvements which would work a fraud upon the party making them unless the agreement is carried out, is a sufficient ground for the equitable interference of the court to uphold or enforce a contract void at law. (4 Kent Com., 10th ed., p. 537.) In this view of the case, Nye, who occupied this island under a written certificate from the governor of California, from 1833 to 1849, and Dowling, his grantee, who occupied under his deed, from 1849 to 1866, and during that time erected mills, machinery, forges, shops, and dwellings, and built wharves and docks, present strong equitable claims for a title which the courts of equity, as between individuals, would not hesitate to enforce. But it may be said that Government cannot, like an individual, be compelled to submit to the equitable powers of the court; and this is true, but it is the highest attribute of Government to do right, and this it may do, when the right is perceived through the action of Congress.

The next position taken by the petitioner is, that he has a valid title against the United States by prescription. It is conceded by the claimant that at common law adverse possession or prescription cannot be set up as against the Government. But it is claimed that the rule is different under the civil law, and that was the law of Mexico at the time of its acquisition by the United States, and, therefore, that rights originating under the Mexican government are to be determined by the civil law. Without controverting the soundness of the latter proposition, the former is believed to be untenable.

It was a principle of the Roman civil law that the crown lands, of which the emperor, as such, has only the usufruct, the property or dominion thereof being in the state, are not liable to prescription of any length of time. (2 Colquhoun on Roman Civil Law, p. 149, sec. 1121.)

But by the Spanish Recopilation Laws of the Indies, it appears that persons who have made their habitation upon lands and cultivated them for four years shall have the right of disposing of them as their own property. And under this law it has been held by the courts in Louisiana that a valid prescription may be created against the Government. (Sanchez *vs.* Conzales, 11 Martin La. R., 210; Pepper *vs.* Dunlap, 19 La. R., 141.) If this was the law of California at the time of its acquisition by the United States, then the grantee of Nye had a valid title by prescription, which the United States Government, under the treaty of Guadalupe Hidalgo, would be bound to respect, unless that title was forfeited by the failure of the occupant to prove up and establish his claim before the board of California land commissioners, under the act of March 3, 1851.

It remains to consider the effect of the action of the United States Government since the acquisition of California in relation to this island. The first official notice taken of this island by an officer of the United States was that published by President Fillmore on the 6th of Novem-

ber, 1850; that the island was reserved for military purposes, but no actual possession was taken of it at that time—Dowling continuing in possession—and on the 20th of June, 1855, the city of San Francisco, by an ordinance of its municipal government, ceded all the right, title, and interest of said city to the land within her corporate limits to the parties in the actual possession thereof, by themselves or tenants, and to their heirs and assigns forever; and on the 11th of March, 1858, the legislature of the State of California confirmed the ordinance of the city, and declared that persons in possession of lands embraced therein shall be deemed to be vested with the absolute title. On the 1st of July, 1864, Congress passed an act which provides "that all the right and title of the United States to the lands within the corporate limits of the city of San Francisco, as defined in the act incorporating said city, are hereby relinquished and granted to said city for the use and purposes specified in the ordinances of said city, ratified by the act of the legislature approved on the 11th of March, 1858; excepting from such relinquishment and grant all sites or other parcels of land which have been or now are occupied by the United States for military, naval, or other public uses, or such other sites or parcels as may hereafter be designated within one year after the survey of said city," &c.

The United States had not occupied, and were not, at the passage of this act, occupying this island, or any portion of it. The order of President Fillmore had never been enforced, and Dowling, being in possession at the time of the passage of the act in 1851, was vested with the title, subject to a defeasance by the order of the President in pursuance of that act.

The power to dispose of the public lands of the United States is vested solely in Congress, and the act of Congress of July 1, 1851, vested the title in the occupant, notwithstanding the order of President Fillmore, which does not appear to be in pursuance of law, especially as such land was not held for military, naval, or public uses at the time of the passage of that act.

But the right of the Federal Government to establish military and naval stations, arsenals, dock-yards, &c., as well as the right expressly reserved in the act of July 1, 1851, would clearly authorize the Government to take this island, or so much of it as is necessary for military purposes. Can they do so without any indemnity to Mr. Dowling? It can hardly be claimed that he has no property-rights in this island and in the improvements which he put upon the same; and by the act of July 1, 1851, the legal title vested in him, subject to the contingency of being divested by an order of the President. That same contingency attached to all the property in the city of San Francisco held under the ordinance and acts above referred to. It will not be claimed that the valuable improvements made by individuals in that great and growing city are subject to be taken by the United States without compensation, when, in the judgment or caprice of the President, they may be needed for military, naval, or public uses. Such a rule would be opposed to the plainest principles of justice, as well as in conflict with that provision of the Constitution which forbids the taking of private property for public uses without just compensation.

APPENDIX.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

Charles A. Howard, being duly sworn, does depose and say that deponent has been living in Yerba Buena and its successor, San Francisco, California, ever since the year 1846; that he, deponent, in 1847, on various occasions, went to shoot goats on a certain island in the bay and harbor of San Francisco, called the Goat Island; that deponent was ordered away by one Gorham H. Nye, said Nye stating to deponent that he, Nye, was the owner of said island, and the goats were his, Nye's, property; that he, deponent, knows that Thomas H. Dowling did reside upon said island in the year 1849, and he, Dowling, had possession thereof, and deponent was then informed by said Dowling that he, Dowling, had acquired the title thereto by purchase from said Nye. Deponent further says that since the year 1849 he, deponent, has visited said island on several occasions and has found considerable improvements made thereon.

CHARLES A. HOWARD.

Subscribed and sworn to before me this 7th day of September, A. D. 1868.
[SEAL.]

E. V. SUTTER,
Notary Public.

DISTRICT OF COLUMBIA, *City and County of Washington, ss:*

Willard B. Farwell, being duly sworn, deposes and says that he is at present a resident of the city of Washington, in the District of Columbia; that he was for sixteen years or thereabouts, up to 1866, a citizen of San Francisco, in the State of California; that during a portion of said period affiant was in the service of the Government of the United States; that about the year 1854, affiant had occasion to examine and select the rock most suitable for the use of the Government in the construction of fortifications, &c., in and about San Francisco harbor, and for that purpose went, in company with Professor William P. Blake, to examine and test the rock on the "Yerba Buena" or Goat Island, in the bay of San Francisco, then occupied by Thomas H. Dowling; that this visit was made to said island on or about the year 1854; that a careful examination of the rock of said island was then made by said Professor Blake and affiant, and in the opinion of affiant, and as then expressed by Professor Blake, the said rock was superior to any other in that vicinity for the purposes required. Affiant then called upon Mr. Dowling for the purpose of ascertaining whether he had any valid claim to said island, and whether contracts could safely be made with him for such rock. Said Dowling then produced the title papers under which he claimed said island, among which was a certificate in Spanish, purporting to have been signed by the secretary of Governor Figueras. That affiant has read the printed affidavit of the claimant, Thomas H. Dowling, contained in the pamphlet accompanying his memorial in Congress, and although affiant cannot at this late day testify positively as to the contents of said certificate, yet that, to the best of affiant's recollection, the said contents as contained in said affidavit of said Dowling are in substance the same as contained in the original certificate as now remembered by affiant. And affiant further states that after such interview large quantities of such rock were purchased of said Dowling for the use of the United States.

And further deponent saith not.

W. B. FARWELL.

Subscribed and sworn to before me this 26th day of January, 1871.
[SEAL.]

JAMES H. MCKENNEY,
Notary Public, Washington County, District of Columbia.

UNITED STATES OF AMERICA,
District and State of California, City and County of San Francisco, ss:

Terivio Tanferan, being duly sworn, deposes and says that he has been a resident of the State of California ever since the year of our Lord 1840. That his residence from said year, 1840, to the present time, has been in what is now called the city and county of San Francisco, it being the same which was formerly called and known by the name of "Yerba Buena." That ever since said year, 1840, he has been acquainted with the island formerly (and now sometimes) called "Yerba Buena" Island, which island of

late has sometimes been called "Goat Island;" which island lies in the bay of San Francisco, about two miles to the eastward of the city front of said city of San Francisco. That deponent was acquainted with Captain Gorham H. Nye as long ago as the year 1840. Said Nye was then the commander of the brig "Bolivar." Said Nye was in the year 1841 (and perhaps earlier) occupying said Yerba Buena Island. That said Nye continued to occupy said island, and had the sole possession thereof from the year 1841, (and perhaps still further back,) until he sold the rights which he held there to Captain Thomas H. Dowling, which sale was about the year 1849, 1850, 1851, or 1852. Deponent cannot recollect exactly as to the year, but does recollect that soon after said Nye completed said sale to said Dowling, and placed said Dowling in possession of said island, he the said Nye came to deponent's house and resided with deponent for some time. The said Captain Nye was the man who introduced said Captain Thomas H. Dowling to deponent, about the year 1849 or 1850. Deponent knows that said Dowling occupied said island from the time said Nye placed him in possession thereof as aforesaid, for several years thereafter, but does not know whether or not he still continues to occupy said island, though he has heard that the United States troops recently expelled him therefrom.

TERIVIO TANFERAN.

Subscribed and sworn to before me this 10th day of November, A. D. 1868.
[SEAL.]
H. F. LARDNER,
United States Commissioner.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

W. F. Swasey, being duly sworn by me, Samuel Hermann, a notary public in and for said city and county, duly commissioned and sworn, deposeth and saith on oath as follows: I arrived in Yerba Buena (near the city of San Francisco, in the State aforesaid) in the month of December, in the year 1845, and was immediately engaged by Captain W. A. Leidesdorff, vice-consul for the United States, as his clerical assistant. At that time I was intimately acquainted with Captain G. H. Nye, and know that he held possession of the Island of Yerba Buena (as it was generally and notoriously understood) under a permit from the Mexican government. He had a house and corral on the island, and also quite a number of sheep and goats; he also used it for the purpose of drying and salting bullock hides and as a general repository for the hides and tallow purchased by him throughout California. His right to the possession of the island was unquestioned and undisputed; and I do most sincerely believe that, under the Mexican government, that right would have been respected forever. It certainly was respected and considered his absolute property by the people generally in California at the time. I also know that Thomas H. Dowling purchased and went into possession of the island in 1849, and has held almost continuous possession of the property up to the present time. It is in my opinion the only natural and geographical terminus and depot, not only for the Pacific Railroad, but for the commerce between Japan, China, the Indias, and the continent of North America. Its importance to the commerce of this continent will, in my judgment, forever inhibit its being dedicated to purposes of harbor defenses and fortifications, especially as San Francisco is amply and sufficiently protected by the fortifications of other points in the harbor already erected. Its value for the purposes of trade and commerce may be computed at millions.

In faith whereof he hereunto subscribed his name.

W. F. SWASEY.

Subscribed and sworn to this 13th day of November, A. D. 1868, before me.
[SEAL.]
SAML. HERMANN,
Notary Pubiic.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
February 6, 1871.

SIR: I have the honor to acknowledge the receipt of your letter of the 23d ultimo, in reference to the claim of Thomas H. Dowling to the island of Yerba Buena, in the bay of San Francisco, California, and in reply to your request that this office furnish you with copies of any official documents on file tending to establish the right of the United States to said island as against the claimant, I have the honor to inclose herewith the following papers, being copies of official evidence of the ownership of said island on the part of the Government, to wit:

1. Copy of the President's order dated November 6, 1850, reserving Yerba Buena Island for military purposes.

2. Copy of a letter from Secretary of War to the President, under date of October 6, 1866, requesting that the island of Yerba Buena, which had been surveyed, and batteries

projected for its military occupation, may be reserved as an exception to the relinquishment of land to the city of San Francisco, under act of Congress approved July 1, 1864, with the President's order indorsed thereon, and bearing date October 12, 1866.

3. Copy of a communication from the Commissioner of the General Land Office, dated January 11, 1868, addressed to Hon. J. M. Howard, chairman of Committee on Pacific Railroad, United States Senate, on the subject of the title to Yerba Buena Island, granted by Mexican Governor Alvarado to Juan José Castro, November 8, 1838, confirmed by the board of land commissioners, May 22, 1855, to Joel S. Polack, but the claim having since been rejected by the court, order granting an appeal was filed on the 31st day of August, 1867, of the result of which this office is not advised.

I would respectfully suggest an application to the United States Attorney General for further information on the subject of final action in the case.

I have the honor to be, very respectfully, your obedient servant,

W. W. CURTIS, *Acting Commissioner.*

Hon. S. L. MAYHAM,
House of Representatives.

[Extract.]

The President of the United States exempts and reserves from sale, for public purposes, the following tracts or parcels of land in the State of California, in the bay of San Francisco, California.

* * * * * * * *

3d. Yerba Buena Island.

* * * * * * * *

MILLARD FILLMORE.

WASHINGTON, *November* 6, 1850.

WAR DEPARTMENT,
Washington City, October 6, 1866.

SIR: I have the honor to request that Yerba Buena Island may be designated as an exception to the relinquishment of land to the city of San Francisco, California, which was authorized by the act of Congress approved July 1, 1864. The island being of importance for defensive purposes, has been surveyed by the Government, and batteries have been projected for its occupation. It is the opinion of the United States district attorney for the northern district of California, that while the act above cited transfers Yerba Buena to the city of San Francisco, it yet clearly gives to the Government the right to secure the property and except it from the transfer at any time within one year after a certain plat shall have been deposited in the General Land Office, by the following provision, being part of the act itself:

"There being excepted from this relinquishment and grant all sites or other parcels of lands which have been or now are occupied by the United States for military, naval, or other public uses, or such other sites as may hereafter be designated by the President of the United States within one year after the rendition to the General Land Office, by the surveyor general, of any approved plat of the exterior limits of San Francisco, as recognized in this section, in connection with the lines of the public surveys."

It has been ascertained that the plat thus referred to has not yet been transmitted to the General Land Office.

I have the honor to be, sir, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

The PRESIDENT.

[Indorsement.]

EXECUTIVE MANSION,
Washington City, October 12, 1866.

Whereas the island of Yerba Buena, in the bay of San Francisco, is needed for defensive purposes, and has been surveyed by the Government, and batteries projected and planned for its occupation, the within application is approved, and referred to the Secretary of the Interior, with directions to except and reserve the island of Yerba Buena, in the bay of San Francisco, from the relinquishment and grant to the city of San Francisco, California, authorized by the act of Congress approved July 1, 1864, and to designate the said island as so excepted and reserved, and it is ordered that the said island be retained by the United States for military uses.

ANDREW JOHNSON.

DEPARTMENT OF THE INTERIOR,
General Land Office, January 11, 1868.

SIR: Referring to your letter of the 10th instant, in regard to the title of Yerba Buena, or Goat Island, in the bay of San Francisco, California, I have the honor to state that the records of this office show that on 27th January, 1852, Joel S. Polack, Seline Franklin, and Edward Franklin filed their petition with the board of land commissioners for the "island of Yerba Buena, situate in the city and bay of San Francisco, containing five hundred acres or thereabout," claiming under a grant from Governor Alvarado to Juan José Castro, dated November 8, 1838, and that the said board of land commissioners, under date May 22, 1855, confirmed the title of the said Joel S. Polack to "Yerba Buena Island, situate in the bay of San Francisco, opposite the city of San Francisco, with the water for its boundaries." On the 1st June, 1864, the surveyor general was directed to report in regard to the final confirmation, and as no response has as yet been received, that officer was this day telegraphed to *report at once*, and when received you will be promptly advised of the contents.*

I have also to state that the island of Yerba Buena was reserved for "*public uses*" by an order of the President dated November 6, 1850, which order was communicated to the surveyor general June 24, 1851.

Subsequently, at the request of the Secretary of War, the President, on the 12th day of October, 1866, directed the island to be reserved for "*military purposes*," it having been excluded from the relinquishment of lands to the city of San Francisco by the fifth section of the act of Congress approved July 1, 1864, (*Vide* Statutes at Large, vol. 13, page 333,) and accordingly instructions were given to the surveyor general on the 17th of October, 1866, to note on the records of his office the order, and respect it.

I transmit herewith a diagram showing the location of Yerba Buena Island. It is believed that it contains approximately one hundred and sixty acres, yet, as it has never been surveyed by the Government, we have not the area officially reported.

The foregoing is all the information in regard to the matter on file in this office.

I have the honor to be, very respectfully, your obedient servant,

JOS. S. WILSON,
Commissioner.

Hon. J. M. HOWARD,
Chairman of Committee on Pacific Railroad, United States Senate.

DISTRICT OF COLUMBIA, *City and County of Washington, ss:*

John Nye, being first duly sworn, deposes and says that he is acquainted with Thomas H. Dowling, the claimant of the island of Yerba Buena, situate in the bay of San Francisco; that he has been acquainted with said Dowling, and also Gorham H. Nye, from the year 1851, at which time affiant was in California, where affiant has resided for most of the time since that date; that affiant was port warden in the city of San Francisco from the year 1853 to the year 1857; that said Dowling has been in peaceable possession of said island from the time when affiant first became acquainted with him as aforesaid until about the year 1867, when said island, or a portion thereof, was taken possession by and under military authority; that said Dowling claimed possession of said island under a purchase or agreement of purchase from said Gorham H. Nye, whose claim was based upon a certificate or paper which he held, purporting to have been issued by the secretary of Governor Figueras, which paper affiant saw often while in the possession of said Nye, which was until about the year 1853 or 1854, when said Nye surrendered it to said Dowling, in whose possession affiant also saw said paper, but what became of said paper affiant has no knowledge; that the contents of said paper was, as nearly as affiant can remember, that it certified that Gorham H. Nye was the owner of said island, and directing all persons to respect his possession thereof as such. Affiant, however, does not recollect the date of said paper, but the consideration therein expressed was for his (Nye's) services in transporting the body of the late Governor Figueras from Monterey to Santa Barbara; that affiant does not recollect the manner in which island was described, but knows it was the island now called Yerba Buena, or Goat Island, in San Francisco Bay.

Affiant further states that said Gorham H. Nye insisted that his grant was recorded in the Mexican national records or archives, and that affiant went with said Dowling to the keeper of said records in San Francisco, but could find no record of such grant, but was informed that four volumes of such records had been destroyed by fire, and whether the same was contained in the records so destroyed affiant has no knowledge.

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*January 14, 1868, answered by telegram as follows:

"Yerba Buena Island, rejected March 17, 1858, and motion for reading denied April 11, 1862. Order granting appeal filed August 31, 1867.

"L. UPSON,
"*United States Surveyor.*"

Affiant further states that while said Dowling held possession of said island as aforesaid, he was engaged a part of the time in quarrying rock therefrom, large quantities of which were, as he then understood, for Government purposes, and for which he was paid by the officers of the Government.

Affiant further states that he knows nothing personally of the possession of said island prior to the said year 1851, but he always understood from said Gorham H. Nye and others that he, the said G. H. Nye, had occupied said island from the year 1833 up to the time said Dowling went into possession as aforesaid.

JOHN NYE.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

Personally appeared before me, a notary public in and for the district and county aforesaid, duly qualified to administer oaths, John Nye, who signed the foregoing deposition in my presence, and made oath to the truth of the same.

Witness my hand this 31st day of December, A. D. 1870.

[SEAL.]

FRED'K KOONES,
Notary Public.

DISTRICT OF COLUMBIA, *City and County of Washington, ss:*

Thomas H. Dowling, being first duly sworn, deposes and says that he first went into possession of the island of Yerba Buena, or Goat Island, lying in San Francisco Bay, in the State of California, in the year 1849. That one Gorhan H. Nye had held possession of said island for fourteen years prior thereto, as affiant was credibly informed, and that said Nye claimed to be the owner of said island by virtue of a certificate or grant from Francisco Castello Negrete, late secretary of governor Jose Figuera, deceased, (the said Negrete then the acting governor,) dated in the month of September, 1835; that affiant made a verbal agreement with said Nye for the purchase of said island, and remained in possession of said island under such verbal agreement of purchase until the year 1864, when he completed the performance of the terms of such purchase, and obtained a deed from said Nye for the same; that the said certificate so held by said Nye was written in the Spanish language, and therefore affiant was unable to read the same, he being unacquainted with the Spanish language, but that the said paper was so frequently translated and read to affiant by persons understanding the said language, that the contents of said paper are well recollected by affiant, and that the said paper was in substance as follow:

"This is to certify that Gorham Hyronemo Nye is the owner of Wood Island, one league east of the pueblo of Yerba Buena, in the bay of said pueblo, it being compensation for transporting the body of the deceased governor, Figuera, from Monterey to the cathedral of Santa Barbara, and he is not to be disturbed in the possession thereof."

There were also some words in addition to the above, being directions to the commandant to observe such possession in said Nye, but the language thereof affiant cannot remember. The said certificate was dated in the month of September, 1835, and was signed by Negrete, secretary of the late governor.

Affiant further states that the said Nye delivered to affiant the said paper, as his muniment of title on or about the year 1853 or 1854, and that affiant took the same to Mr. Greenshugh, the land agent for the United States, to settle and adjust claims to lands in California; that the said Greenshugh received and kept the said paper, with others then presented by affiant, but at the same time remarked that there was a claim for said island in favor of Mr. Joel T. Polack, then pending before the commissioner, and which claim he believed would be allowed; that soon after this conversation the said Greenshugh died, and affiant went to the said law agent's office, then in charge of Lewis Blanding, and requested the return to him of said papers; that said Blanding and his clerk spent several days in searching for said paper, but, as they informed affiant and as he believes, the same could not be found, and affiant says he has no further knowledge of said paper; that he has not seen it since the time he delivered it to said Greenshugh, and has no knowledge of its wherabouts.

Affiant further states that the claim of said Polack to said island was confirmed by said commissioners, and that for the purpose of avoiding an apparently adverse title to said island, affiant procured the United States authorities to appeal from such confirmation, which appeal prevailed, and the said claim of Polack was rejected. That on the trial of said cause in said appeal, affiant paid large sums of money in procuring the attendance of witnesses and for other purposes, which expenses the court then sitting refused to charge against the United States, for the reason that such expenses were incurred for affiant's own benefit, and that the United States was not the real party in interest in said suit, but that affiant was the real party in interest therein.

Affiant further states that he remained in the peaceful possession of said island until the year 1867, when the island was taken partial possession of by a small detachment

of soldiers, who have remained quartered on said island, as he believes, ever since, but the tenant of affiant, there in possession of a portion of the said island, has been permitted to remain in such possession.

Affiant further states that there are valuable stone quarries on said island, and that during the possession of affiant as aforesaid he has been engaged in quarrying and selling the stone therefrom, and that during several years of such occupancy he sold annually large quantities of such stone to the United States authorities; that during the said controversy said Polack enjoined the United States officers from paying to affiant for so much of said stone as he had not then been paid for; that such injunction was afterward dissolved, when affiant was paid the amount so enjoined, under orders of Major Z. L. Towers, the said money being paid by William T. Sherman (now General) at the banking house of Lucas, Turner & Co., upon the check of said Towers.

THOMAS H. DOWLING.

Subscribed and sworn to before me this 3d day of January, 1871.

[SEAL.] FREDERICK KOONES,
Notary Public, Washington, D. C.

Jacob P. Leese, being first duly sworn, was examined before the Committee on Public Lands, and made the following statement: I am well acquainted with Gorham H. Nye, the former owner of Yerba Buena, or Goat Island; I first became acquainted with him in the year of 1834, when he was in command of the brig Avon at Monterey; the next time I saw him was likewise in Monterey, in command of the said brig Avon, in the fall of 1835, when he embarked the body of the deceased Governor José Figueras on board of the said brig from the capital of Monterey to the cathedral of St. Barbara, where the body was deposited.

Question. How long have you resided in California?—Answer. I resided in Upper California since the year 1833, and settled in Yerba Buena in July, 1836, and remained there until August, 1841, when I sold out my mercantile establishment to the Hudson's Bay Company, then settled in Sonoma, and remained there until December, 1848, and established myself in Monterey, where I resided with my family up to the present time, and being well acquainted with all the authorities and also well identified in general with all the proceedings of the country.

JACOB P. LEESE.

In the district court, fifteenth judicial district.

THOMAS H. DOWLING, plaintiff,
vs.
B. S. BROOKS, Sr., B. S. BROOKS, Jr., JOHN GREEN, John Scott, and Mike Higgins, defendants.

STATE OF CALIFORNIA, *County and City of San Francisco, ss:*

Thomas H. Dowling, the above-named plaintiff, complains of B. S. Brooks, sr., B. S. Brooks, jr., John Green, John Scott, and Mike Higgins, the above-named defendants, and for his cause of complaint alleges as follows:

The said plaintiff alleges that in the year 1849 he entered upon, became the owner, and took possession of that certain tract of land known as Yerba Buena, or Goat Island, situate in the bay of San Francisco, in said county of San Francisco, and remained in the lawful and peaceable possession and occupancy of said island until the commission of the wrongs and trespass by the said defendants as hereinafter mentioned. The said plaintiff further alleges that he was the owner of and in the quiet possession of said island, and was entitled to the possession thereof, and was residing thereon with his family, and claimed and held said island as his homestead property, and that which he so occupied and was entitled to the possession of said island, they, said defendants, in the night time on the night of the 14th day of March, in the year 1866, forcibly and without authority entered upon said island, and with force and violence wrongfully and unlawfully tore down and destroyed the dwelling-house of said plaintiff, wherein his family then resided, and wrongfully, forcibly, and unlawfully took and ejected from said dwelling-house the members of plaintiff's family, to wit, his son and daughter, then occupying the same as plaintiff's homestead, and with force and violence took and compelled the said members of plaintiff's family to go aboard a boat for that purpose used by the said defendants, and were, by the said defendants, with force and violence, wrongfully and unlawfully taken away from said island.

The plaintiff says further that said island is of great value by reason of the extensive quarries of stone thereon, and that at the time of the wrongs and injuries by the defendants committed as aforesaid, was for the supply of building material for houses in the city of San Francisco, and the paving of streets, of the value of $500,000. That said defendants on the 14th day of March, 1866, as aforesaid, wrongfully, unlawfully, and forcibly ejected the said plaintiff from said island, thereby denying and depriving the plaintiff of the power to work said stone quarries, whereby said defendants have damaged plaintiff to the amount of $20,000.

Said plaintiff alleges that said defendants on the 14th day of March, 1867, as aforesaid, wrongfully and unlawfully destroyed the residence of the said plaintiff, and ejected him and his family therefrom, the said property so destroyed by the defendants being at that time occupied and claimed by the plaintiff and his family as a homestead, whereby the plaintiff was injured and damaged to the sum of $5,000.

In consideration of which wrongs and injuries by the said defendants committed as aforesaid, the plaintiff brings this action, and prays that he may have judgment against said defendants for the sum of $25,600, and his costs in this behalf expended.

G. D. HALL & W. W. DRUMMOND,
Attorneys for Plaintiff.

STATE OF CALIFORNIA, *San Francisco County, ss:*

Before me, the undersigned, this 15th day of March, 1867, personally came Thomas H. Dowling, plaintiff named in the foregoing complaint, who, being sworn, says he has heard said complaint read, and that the matters and things therein mentioned are true of his own knowledge, except those matters stated upon information and belief, and, as to those, he believes it to be true.

THOS. H. DOWLING.

Subscribed and sworn to before me the day and date above written.

G. C. LETCHER,
Deputy County Clerk.

I, Washington Bartlett, county clerk of the city and county of San Francisco, State of California, and ex-officio clerk of the fifteenth district court in and for said city and county, hereby certify the foregoing to be a full and true copy of the original complaint in the above-entitled action, filed in my office on the 13th day of March, A. D. 1867.

Attest my hand and seal of said court, this 8th day of July, A. D. 1869.

[SEAL.] WASHINGTON BARTLETT, *Clerk.*
By BEN. MORGAN, *Deputy Clerk.*

In the district court of the fourth judicial district.

JOHN V. WATTSON, plaintiff,
vs.
THOMAS H. DOWLING, defendant.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

The above-named plaintiff, a resident of said city and county of San Francisco, complains of the said defendant, a resident of the same place, and for cause of action says:

That heretofore, to wit: on the 16th day of November, A. D. 1858, the said plaintiff was and for a long time prior thereto, at said city and county, had been seized, possessed, and the owner of the following tract or parcel of land, situate, lying, and being in said city and county of San Francisco, and bounded and described as follows, to wit: being a portion of the island of Yerba Buena, commencing from a stake in the eastern sand beach known as Jenning's stake or boundary; thence running in a northwesterly direction 18 chains to a stake in the western side of said island known as Jenning's stake; thence bounded on the northwest, west, south, and east, to the place of beginning by the low-water mark on the beach of said island, containing one hundred and three acres and three roods.

And the said plaintiff, from the day and year last aforesaid, has been and now is the owner of all and singular the said premises and entitled to the possession thereof.

And said plaintiff, being then and there seized and possessed of said tract or parcel of land as aforesaid, the said defendant afterwards, to wit, on the 28th day of January, A. D. 1859, unlawfully entered into and upon said premises, and with force and arms ejected therefrom the said plaintiff, and the said defendant has ever since wrongfully and unlawfully withheld, and now wrongfully and unlawfully withholds, the possession of said premises from said plaintiff, to the great damage of said plaintiff, to wit, in the sum of $2,000.

And plaintiff, for another and further cause of action against said defendant, says that said defendant heretofore, to wit, on the day and year and at the place aforesaid, with force and arms and violence broke and entered that certain messuage and premises of the said plaintiff, being the same in the first count of this complaint described, situate in the said city and county of San Francisco, and ejected, expelled, put out, and moved the said plaintiff from his possession and occupation thereof, and kept and continued him so expelled and amoved for a long space of time, to wit, from the day and year aforesaid, hitherto and still keeps the said plaintiff so expelled, put out, and amoved, and during all that time the said defendant took and had and received to the use of him, the said defendant, all the issues and profits of said tenements and premises, being of great monthly value, to wit, of the monthly value of $200, whereby the said plaintiff, during all the time aforesaid, not only lost the issues and profits of said lands, tenements, and premises, with the appurtenances, but was deprived of the use and occupation of the same, to the damage of the plaintiff in the sum of $2,000.

Wherefore the plaintiff brings this suit, and prays he may have and recover from the said defendant the said premises and the possession thereof and his damages aforesaid for the withholding thereof, to wit, the sum of $2,000, and also his costs in this behalf sustained.

McDOUGALL & SHARP,
Plaintiff's Attorneys.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

John V. Wattson, of lawful age, being duly sworn, deposes and says that he is the plaintiff in the above-entitled action; that the foregoing complaint is true of his own knowledge except as to the matters which are therein stated on information and belief, and as to those matters that he believes it to be true.

JNO. V. WATTSON.

Subscribed and sworn to before me this 5th day of May, A. D. 1859.

J. B. McMINN,
Deputy County Clerk.

(Indorsed:) Complaint. Filed May 5, 1859. Wm. Duer, clerk, per Beverly C. Duer, deputy clerk.

In the district court of the fourth judicial district of the State of California, in and for the city and county of San Francisco.

JOHN V. WATTSON, plaintiff,
vs.
THOMAS H. DOWLING, defendant.

Action brought in the district court of the fourth judicial district of the State of California, in and for the city and county of San Francisco, and the complaint filed in said city and county of San Francisco, in the office of the clerk of said district court

The people of the State of California send greeting to Thomas H. Dowling, defendant:

You are hereby required to appear in an action brought against you by the above-named plaintiff in the district court of the fourth judicial district of the State of California, in and for the city and county of San Francisco, and to answer the complaint filed therein within ten days (exclusive of the day of service) after the service on you of this summons, if served within this county; or, if served out of this county, but in this district, within twenty days; otherwise, within forty days, or judgment by default will be taken against you, according to the prayer of said complaint.

The said action is brought to recover a judgment in favor of said plaintiff against you for the possession of certain premises claimed by the plaintiff and alleged to be wrongfully withheld by defendant, together with the sum of $2,000 damages for such detention and for costs of suit, as particularly set out in plaintiff's complaint.

And you are hereby notified, that if you fail to appear and answer the said complaint as above required, the said plaintiff will apply to the court for the relief demanded in his said complaint.

Given under my hand and the seal of the district court of the fourth judicial district of the State of California, in and for the city and county of San Francisco, this 5th day of May, in the year of our Lord one thousand eight hundred and fifty-nine.

[SEAL.]

WM. DUER, *Clerk.*
By CHAS. S. CAPP,
Deputy Clerk.

OFFICE OF THE SHERIFF OF THE CITY AND COUNTY OF SAN FRANCISCO.

I hereby certify that I received the within summons on the 6th day of May, A. D. 1859, and personally served the same on the 14th day of May, A. D. 1859, upon Thomas H. Dowling, the within defendant, by delivering to the said defendant personally, in the city and county of San Francisco, a copy of said summons, attached to a certified copy of the complaint.

Dated at San Francisco this 14th day of May, 1859.

CHARLES DOANE, *Sheriff.*
By WM. H. SILVERTHORN,
Deputy Sheriff.

(Indorsed:) Filed this twenty-third day of May, A. D. 1859. William Duer, clerk, by Chas. S. Capp, deputy clerk.

In the district court, fourth judicial district.

JOHN V. WATTSON
vs.
THOMAS H. DOWLING.

The defendant comes and for answer to plaintiff's complaint, shows:

1. That he denies each and every allegation in the first count of the complaint.
2. That he denies each and every allegation in the second count of the complaint.
3. That on the day of seizure alleged in the complaint, to wit, the 16th day of November, A. D. 1858, and a long time prior thereto, the premises described therein were occupied and possessed by defendant with his family, as a homestead, of which plaintiff had due notice.

Wherefore he demands judgment and his costs in this behalf expended.

WM. BLANDING,
Defendant's Attorney.

STATE OF CALIFORNIA, *City and County of San Francisco:*

Personally appeared before me Thomas H. Dowling, and made oath that he is the defendant in this action; that the foregoing answer is true of his own knowledge, except as to the matters which are therein stated on his information or belief, and as to those matters that he believes it to be true.

THOMAS H. DOWLING.

Subscribed and sworn to before me this 21st day of May, 1859.

J. B. McMINN,
Deputy County Clerk.

(Indorsed:) "Answer." Filed May 21, 1859. Wm. Duer, clerk; Beverly C. Duer, deputy clerk.

In the district court of the fourth judicial district of the State of California, in and for the city and county of San Francisco.

JOHN V. WATTSON
vs.
THOMAS H. DOWLING.

Judgment rendered July 15, A. D. 1859. Register No. 7,553.

This cause came on regularly for trial in its order upon the calendar.

S. A. Sharp appeared as attorney for the plaintiff, and William Blanding, esq., for defendant.

The following persons, to wit, George Hager, S. A. Metcalf, S. Dick, J. A. Banks, J. L. Cole, R. Clark, J. Damon, E. Ellery, J. Daly, H. Doscher, C. Mercer, and T. J. Hall, were duly impaneled, accepted, and sworn as the jury to try this cause, whereupon John McDougall, a witness for the plaintiff, and Charles H. Kohler and Edmund D. Cox, witnesses for the defendant, were duly sworn and examined, and after hearing the arguments of counsel for the respective parties and the charge of the court, the jury retired to deliberate upon their verdict, and subsequently returning into court, said they found for the defendant.

Wherefore, by virtue of the law, and by reason of the premises and verdict aforesaid, it is ordered, adjudged, and decreed, that John V. Wattson, plaintiff, do take

nothing by this action as against said defendant, Thomas H. Dowling; but that said defendant, Thomas H. Dowling, do have and recover of and from John V. Wattson, plaintiff, his costs and disbursements incurred in this action, amounting to the sum of $59 50.

Judgment entered July 16th, 1859.

(Indorsed:) Judgment rolls. Filed July 16th, A. D. 1859. W'm Duer, clerk, by Cha's S. Capp, deputy clerk.

In the district court of the fourth judicial district of the State of California, in and for the city and county of San Francisco.

JOHN V. WATTSON, plaintiff,
vs.
THOMAS H. DOWLING, defendant. } No. 7,553.

I, Washington Bartlett, county clerk of the city and county of San Francisco, and ex-officio clerk of the district court of the fourth judicial district of the State of California, in and for the city and county of San Francisco, do hereby certify the foregoing to be a full, true, and correct copy of the original judgment roll in the above-entitled cause, which I have caused to be exemplified according to the act of Congress.

In witness whereof I have hereunto set my hand and affixed the seal of said court this 1st day of July, A. D. 1869.

[SEAL.]

WASHINGTON BARTLETT,
County Clerk, and ex-officio Clerk of the District Court of the 4th Judicial District.

In the district court of the fourth judicial district of the State of California, in and for the city and county of San Francisco.

JOHN V. WATTSON, plaintiff,
vs.
THOMAS H. DOWLING, defendant. } No. 7,553.

I, E. D. Sawyer, sole judge of the district court of the fourth judicial district of the State of California, in and for the city and county of San Francisco, do hereby certify that said court is a court of record, having a clerk and seal. That Washington Bartlett, who has signed the annexed attestation, is the duly elected and qualified county clerk of the city and county of San Francisco, and was, at the time of signing said attestation, ex-officio clerk of said district court. That said signature is his genuine handwriting, and that all his official acts as such clerk are entitled to full faith and credit. And I further certify that said attestation is in due form of law.

Witness my hand this 1st day of July, A. D. 1869.

E. D. SAWYER,
Judge of the District Court of the 4th Judicial District of the State of California, in and for the City and County of San Francisco.

STATE AND DISTRICT OF CALIFORNIA, *City and County of San Francisco:*

Paula Valencia being duly sworn, deposes and says:

Question. Did you know Gorham H. Nye?—Answer. Yes, many years ago, before I was married, which was between thirty and forty years ago, when he was captain of a trading vessel.

Q. Where did he live after he left his vessel?—A. After he left his vessel he lived part of the time in Yerba Buena and part of the time on Yerba Buena Island, where he had a party of kanakas and goats. I often stopped at the island in crossing the bay.

Q. How long did he live on the island, so far as you know?—A. He commenced to live there in the year 1833 or 1834; and the reason why we used to stop at the island was that there were breakers on the beach at Yerba Buena, so that it was smoother for the launch at the island.

Q. How late a date do you remember the captain living on the island?—A. I do not know, certain; I was living at the Mission Dolores, and only saw the captain when he visited me at the Mission.

Q. Is this Yerba Buena Island the island formerly occupied by Captain Nye?—A. Yes, it is the same island; but after he put the goats on it we used to call it Goat Island, and is the same island now claimed by Captain Thomas H. Dowling.

[SEAL.] PAULA VALENCIA.

Subscribed and sworn to before me this 24th day of September, 1868.

H. F. LARDNER,
United States Commissioner.

STATE OF CALIFORNIA, *City and County of San Francisco:*

Thomas H. Dowling, of Yerba Buena, or Goat Island, being duly sworn, deposes and says that he is the rightful and lawful owner of the island of Yerba Buena, by quit-claim deed from one Gorham H. Nye, and duly recorded; and that he was unlawfully ejected from the said island by General McDowell, purporting to act under authority from the United States; and that he, Dowling, has had a bill introduced in Congress, asking for the confirmation of his claim; and pending the examination by Committee on Public Lands, he most respectfully protests against any action being taken granting to the Western Pacific Railroad Company any portion of the aforesaid island until his claim to the same be finally settled.

THOMAS H. DOWLING.

True copy:

N. CALLAN, *Notary Public.*

(Original filed in the Committee on the Public Lands in the Senate of the United States.)

Deed.—Gorham H. Nye to Thomas H. Dowling.

This indenture, made the twenty-second day of December, in the year of our Lord one thousand eight hundred and sixty-four, between Gorham H. Nye, of the city and county of San Francisco, in the State of California, party of the first part, and Thomas H. Dowling, of the same place, party of the second part, witnesseth that the said party of the first part, for and in consideration of the sum of five hundred dollars, lawful money of the United States of America, to him in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath remised, released, and quit-claimed, and by these presents doth remise, release, and quit-claim unto the said party of the second part all his right, title, and interest of, in, and to all that certain piece, or parcel, or tract of land in said city and county, and known as Yerba Buena Island, situate, lying, and being in the bay of San Francisco, about two miles in an easterly direction from the custom-house in said San Francisco, containing about one hundred and sixty acres, more or less.

Together with all and singular the tenements, hereditaments, and appurtenances hereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and also all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity of the said party of the first part of, in, or to the above-described premises and every part and parcel thereof, with the appurtenances.

To have and to hold all and singular the above-mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns, forever.

In witness whereof, said party of the first part hath hereunto set his hand and seal the day and year first above written.

[SEAL.] GORHAM H. NYE.

Signed, sealed, and delivered in the presence of—

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

On this twenty-third day of December, A. D. one thousand eight hundred and sixty-four, before me, George T. Knox, a notary public in and for said city and county, duly commissioned and sworn, personally appeared the within-named Gorham H. Nye, whose name is subscribed to the annexed instrument as a party thereto, personally known to me to be the individual described in and who executed the said annexed instrument, and he acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal, at my office in said city and county, the day and year last above written.

[SEAL.] GEORGE T. KNOX, *Notary Public.*

A true copy of the original, recorded at request of T. H. Dowling, December 22, 1864, at two minutes past 3 o'clock p. m.

T. YOUNG, *County Recorder.*

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

I, William L. Higgins, county recorder in and for the city and county of San Francisco, do hereby certify that the annexed is a full, true, and correct copy of an original deed, as will appear by reference to Book 269 of Deeds, page 116, now in my office.

In testimony whereof I have hereunto set my hand and affixed my official seal this 31st day of January, A. D. 1870.

[SEAL.] WILLIAM L. HIGGINS, *County Recorder.*

Per G. M. BERRY, *Chief Deputy.*

In the district court of the fifteenth judicial district of the State of California, in and for the city and county of San Francisco.

THOMAS H. DOWLING, plaintiff,
vs.
B. S. BROOKS, B. H. BROOKS, JOHN GREEN, John Scott, Mike Higgins, and John Doe and Richard Roe, whose real names are unknown to the plaintiff, defendants.

Amended complaint filed by leave of the court.

The amended complaint of the above-named plaintiff shows to this court that on the 14th day of March, 1866, at the said city and county, the defendants above named unlawfully entered and broke in and upon the plaintiff's farm and house, situate in the city and county of San Francisco, and State of California, and known as "Yerba Buena," sometimes called Goat Island, which island is bounded on all sides by the waters of the bay of San Francisco; that after said defendants had so entered, they cut down the plaintiff's house and trod down the grass, and otherwise injured the same, and against the will of the plaintiff unlawfully took the possession thereof from the plaintiff, and still unlawfully withhold the possession thereof from the plaintiff, to his damage in the sum of $25,000.

Wherefore plaintiff demands judgment against the defendants for the sum of $25,000 damages, and that they be required to surrender to the plaintiff the possession of said premises, and for such other relief as he may be entitled, together with the costs of this action.

G. T. & WILLIAM H. SHARP,
Attorneys for Plaintiff.

CITY AND COUNTY OF SAN FRANCISCO, *ss:*

Thomas H. Dowling, being duly sworn, deposes and says that he is the plaintiff in the above-entitled action; that he has read the foregoing complaint, and knows the contents thereof; and that the same is true of his own knowledge, except those matters therein stated on his information or belief, and as to those matters he believes it to be true.

THOMAS H. DOWLING.

Subscribed and sworn to before me this 27th day of September, 1867.

R. P. LEWIS,
Notary Public.

I, Washington Bartlett, county clerk of the city and county of San Francisco, State of California, and ex-officio clerk of the fifteenth district court in and for said city and county, hereby certify the foregoing to be a full and true copy of the original complaint in the above-entitled action, filed in my office on the 27th day of September, A. D. 1867.

Attest my hand and seal of said court, this 25th day of June, A. D. 1869.

[SEAL.] WASHINGTON BARTLETT, *Clerk.*
By BEN MORGAN, *Deputy Clerk.*

DISTRICT OF COLUMBIA, *City and County of Washington, ss:*

Edward McGowan, being duly sworn, deposes and says, in addition to and reference being made to affiant's affidavit of the 2d of May, 1868, in this cause, that upon the trial before affiant, referred to in said affidavit, objection was made by defendant in said suit to the title of plaintiff, Thomas H. Dowling, to the said island of Yerba Buena; whereupon said Dowling produced in evidence a certificate dated in September, 1835, from the secretary of Governor Figueras, then lately deceased, which certificate certified in substance that Gorham Hyronemo Nye was the owner of Wood Island, one league distant from the pueblo of Yerba Buena, in the bay of said pueblo, the same being compensation for transporting the body of the deceased Governor Figueras from Monterey to Santa Barbara, and assured to him the full possession of the same.

Affiant further states that the place called Wood Island in said certificate was well understood, and shown and proved upon said trial, to be the island called at a later date and now known as Yerba Buena, or Goat Island.

Affiant further states that the reasons why the contents of said certificate are so well fixed in affiant's mind are that the said certificate and its admissibility as evidence was fully discussed at the time by able counsel, who occupied several hours in such discussion, during which time affiant critically examined the same, for the purpose of rendering his decision and charging the jury thereupon.

EDWD. McGOWAN.

Sworn and subscribed before me this 20th day of January, A. D. 1871.

[SEAL.] N. CALLAN,
Notary Public.

UNITED STATES OF AMERICA,
District and State of California, City and County of San Francisco, ss:

John Tripp, being duly sworn, deposes that he has been a resident of the city and county of San Francisco, State of California, for over six years last past; that he is acquainted with Captain Thomas H. Dowling, of the said city and county; has been acquainted with him for about five years last past; that he knows the island which is sometimes called Goat Island, and sometimes called Yerba Buena Island. Said island lies in the bay of San Francisco, about two miles easterly from the front of the city of San Francisco. Deponent worked on said island for a tenant of said Dowling nearly five years ago; that deponent worked there over twelve months, superintending the workmen of said tenant. Deponent knows that of the tide lands adjoining upon and connected with said island, said Dowling filled up and made dry land of about from two and a half to three acres, which is a valuable improvement. That the cost of said filling up of said tide lands would be about $250,000. That deponent would not take the job to fill in one acre there for less than $1,000,000. Deponent knows that said Dowling had other improvements on said island, such as several houses and out-houses, and cultivated lands; that afterward, to wit, in the year 1866, deponent did other work on said island, making an embankment. Deponent was then engaged by said Dowling as superintendent on said work. Deponent says that in his judgment said Dowling has lost over one million of dollars by being expelled from said island.

JOHN TRIPP.

Subscribed and sworn to before me this 10th day of November, A. D. 1868.

H. F. LARDNER,
Commissioner United States Court, District of California.

41ST CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 51.

CONTRACTS IN THE TREASURY DEPARTMENT.

MARCH 3, 1871.—Ordered to be printed and recommitted.

Mr. CHURCHILL, from the Committee on Expenditures on the Public Buildings, made the following

REPORT.

The Committee on Expenditures on the Public Buildings, who were instructed by the House, upon the resolution offered by Mr. Schenck March 21, 1870, *"to investigate the manner in which expenditures are made on public buildings, particularly those under the direction of the Supervising Architect of the Treasury Department, and that they also inquire into the manner in which he has conducted his office, and to report by bill or otherwise," report:*

That in the discharge of the duties with which they were charged by the House they have taken a considerable amount of testimony bearing upon the subjects investigated, which they herewith report. In selecting subjects for their investigation, the committee have taken for the most part those to which their attention was directed by charges made to them against the management of the Supervising Architect of the Treasury with respect thereto. So far as those charges related to the post offices in process of erection in New York and Boston and contracts connected therewith, the committee found that they had been examined at length by the Committee on Post Offices and Post Roads, and that subsequent to the adoption of the above-mentioned resolution that committee had submitted majority and minority reports to the House, with the very voluminous testimony taken by them, whereby the case, with respect to these buildings, had been so fully presented that the committee have not deemed it necessary to repeat or extend the investigation, so far as these buildings are concerned.

One of the first subjects to which the attention of the committee was directed was the custom-house and post office in process of erection at St. Paul, Minnesota. Persons residing at St. Paul charged, although parties at that place desired and asked, and had been promised by the Supervising Architect, an opportunity to bid for the furnishing of granite for that building, that without advertising or notice to these parties of any kind, a contract for the granite required was closed at a much higher price than these parties would have been willing to have furnished the same for. It was further charged that after a contract had been entered into with a firm to cut the granite to be used in the building, the parties to this contract were allowed to give it up, and then to carry on the work by the day for the Government at a greatly increased expense; that the work done by the day was intentionally made needlessly expensive, so as to pave the way for a new contract at a greatly increased rate; and that such contract was entered into to the great disadvantage of the Government. The committee have taken evidence

upon these subjects, and find the following to be substantially the facts in the case:

The custom-house at St. Paul is built of the St. Paul limestone, with dressings of granite. Work upon the foundation of the building was commenced in September of 1867 under the superintendence of A. F. Knight, esq., an architect by profession, residing in St. Paul, and who was appointed upon the recommendation of Senator Ramsey and others.

During the following winter, it appears from the evidence, at least five or six persons informed the superintendent of their wish to put in proposals for furnishing granite. One of these, T. M. Newson, esq., in February, 1868, wrote to the Supervising Architect at Washington, who replied as follows:

TREASURY DEPARTMENT, *February* 25, 1868.

SIR: Yours of the 18th instant is received. In reply I have to say that the new custom-house at St. Paul will be constructed of the Minnesota limestone, with dressings of granite, for which a large quantity of stone will be required.

Advertisements requesting proposals for furnishing the same will be duly published by the superintendent, and I shall be much pleased to have you submit a bid.

If you are the lowest bidder, and the security and sample of stone are satisfactory, the contract will be awarded to you.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

T. M. NEWSON, Esq.,
St. Paul, Minnesota.

With the opening of the spring and of the season for commencing work upon the building, the Supervising Architect, in repeated letters, urged upon the superintendent to obtain as soon as possible proposals for furnishing granite, so that a contract might be entered into and work commenced.

From these letters, as well as from previous correspondence, it would appear that the Supervising Architect expected the superintendent to advertise for proposals in accordance with the rules and custom of the Department. Instead of doing so, Knight, without advertising, and after advising with only two of the parties who had spoken to him on the subject, one of whom had already informed him that he had sold his quarry and gone into other business, closed a bargain with the other, F. R. Delano, esq., at 65 cents per cubic foot for dimension granite of all sizes, delivered at the custom-house site.

This contract was approved by the Supervising Architect, and under it all the granite used in the building, amounting to about $16,000, has been furnished. The evidence abundantly shows, in the judgment of the committee, that the contract was in fact a favorable one for the Government; that the contractors lost money by the contract, and that the granite could not have been furnished at a less price by any of the parties wishing to bid, without a loss to the contractor. They think, however, that the manner in which the contract was entered into was an improvident one, and that it was unjust, both to the Government and to other parties, not to have given them an opportunity to have put in proposals, and that the fact that the Government did not lose by the contract was owing rather to the ignorance or inexperience of the contractor, of the cost of getting out granite, than to any good management on the part of the superintendent in charge of the work. The committee are rather impressed with this idea, from the fact that similar management seems to have prevailed in other matters. In procuring the limestone for the walls, although the city is underlaid with that material, the stone was

first procured by leasing a quarry from one William F. Davidson, and after working it for some time a contract was entered into with the same person to furnish the balance of the limestone needed, at 35 cents per cubic foot, but neither in making the lease nor the subsequent contract does any opportunity appear to have been given to other parties to make proposals for furnishing the Government with this material.

The contract for cutting the granite, after advertisements for proposals in the newspapers both at St. Paul and Washington, was first entered into with John Stuart & Co., at Washington, who went to St. Paul to do the work. Their original proposal was, to do the work for $86,794 51, but by their contract they agreed to do it for $66,955 68. The granite proved to be harder and more difficult to work than had been anticipated, and the contractors found themselves embarrassed by the eight-hour law of Congress, and after laboring until their work amounted to $6,464 90 they abandoned the contract. As they were the only available granite-cutters in Minnesota, and the Government was very anxious for the work to proceed, their abandonment of the contract was assented to on the part of the Government, and the same workmen were employed by the day to continue the cutting. This was continued until $19,923 77 had been expended in this way, when, finding it much more expensive than had been anticipated, a contract was entered into with A. H. Wilder to finish the work, at a price which would make the cutting of the granite for the whole building amount to $105,494 60. Although this is a very large advance upon the original bid, and still larger upon the contract price with John Stuart & Co., the committee have failed to discover any evidence that any improper motive influenced either the Supervising Architect or the superintendent to make this contract, or that the contract was sufficiently profitable to furnish any ground to suspect fraud in its being entered into. Granite-cutters seem to have been rare in Minnesota, and to have commanded high wages for their labor; the stone was a difficult one to work, and the drawings and photographs of the work presented to the committee showed that the work was so elaborate that they could easily believe the testimony of the contractor, who was examined by them, that the contract had given him only an ordinary living profit. The evidence before the committee showed that the cost of dressing and putting in place the granite used in building the Boston post office was about twice that of the stone as delivered at the building, while in St. Paul it was more than six times as great. It may well be doubted whether it was wise to have adopted in this building a style and degree of ornamentation sufficient for one erected at the most conspicuous point in the whole country, and whereby, with other causes, the expense has been increased from $173,335, the original estimate, to $379,000, the amount now estimated as necessary, with what has been already expended, to complete the building.

The correspondence, a part of which is presented herewith, shows that the Supervising Architect was constantly urging the superintendent of the building to greater energy in the prosecution of the work, and to economy in its management; and the photographic views of the building presented to the committee, with the evidence, show that the work has been very thoroughly, substantially, and elegantly done, and that the Government will have a building, when completed, which will, it is true, have cost nearly twice the original estimate, but which will be an ornament to St. Paul and a credit to the Government, and which will fairly represent the money expended upon it by the Government.

While the committee cannot approve the management of the superintendent, and think the building should have been built upon a plan

involving less expense, they have been unable to find evidence of any fraudulent action with respect to it upon the part of the Supervising Architect of the Treasury.

Another subject to which the attention of the committee was called, was that of the workshops and photographic establishment under the direction of the Supervising Architect. With respect to these it was alleged that the work done at them was much more expensive than the same could be procured for by contract or purchase in open market; and, also, that work was done at them for private individuals, and that large amounts of the latter had not been paid for by the persons for whom it was done. The committee examined these establishments, and found that the force employed in the workshops had been very materially reduced. They found that it was true that work had been done for private parties at these establishments, and by the men there employed, during the last administration; but that soon after the present Secretary of the Treasury entered upon the duties of his office, by his order the practice was stopped. The amount of work done at the Treasury workshops for private parties, and the persons for whom it was done, will appear from the following statement furnished to the committee; from which it will also appear that the same has been paid for, with very trifling exceptions, although a considerable part was not paid for until after the committee commenced its investigations.

Statement of work done in the workshops of the Treasury extension for private parties, as it appears from the books of the Treasury extension, since the date of appointment of A. B. Mullett, esq., as Supervising Architect, the amounts charged for the same, and how and when paid.

No.	Name.	Dates at which work was performed.	Nature of the work.	Amount charged.	How paid.	When paid.	Amount.	Balance due.
1	Wm. Slade, (late steward of Executive Mansion.)	From Sept. 2, 1867, to June 24, 1868.	Shoeing horses and keeping the same; repairing buggy and carriage, &c.	$441 32	By cash to disbursing clerk. Do..... By check.....	August 13, 1867.... March 9, 1868..... April 1, 1869..... June 27, 1870.....	$100 00 150 00 100 00 91 32	
							441 32	Balanced.
2	C. W. Walton.....	Sept. 2, 1867, to Dec. 12, 1867.	Repairing buggy and shoeing horses	14 63	Cash as above	Sept. 30, 1868.....	14 63	Do.
3	B. Oertly.....	Sept. 2, 1867, to May 18, 1868.	Moving furniture, water pipes, and repairing each, &c.....	61 89	..... do	Dec. 1, 1868	61 89	Do.
4	W. H. West, C. C..	Dec. 14, 1866, to March 11, 1868.	Fitting up stoves and chandeliers, gas-pipes, and brackets, carpentry, &c.	61 86	..... do	July 1, 1869	61 86	Do.
5	Michael Hines	Sept. 18, 1868.....	Use of cart	6 50	..... do	April 6, 1869.....	6 50	Do.
6	L. A. R. Tisdale...	Jan. 7 to April 19, 1869.	Sundry labor.....	6 50	..... do	June 15, 1869.....	6 50	Do.
7	"Inauguration Ball Com."	Feb. 15 to March 15, 1869.	Sundry materials and labor for decorations, hauling, washing floors, &c.	2,311 04	Credit by materials returned. By check placed in hands of disbursing agent.	April 5, 1869..... ..... do	811 04 1,500 00	Do. Do.
8	Wm. Brown.....	Dec. 21, 1868	Shoeing horse	1 39	.....	.....	.....	$1 39
9	Wm. Handy.....	Sept. 12 and 13, 1867	Labor and material for painting.....	17 18	By cash to disbursing clerk.	Sept. 30, 1867.....	17 18	Balanced.
10	Hon. M. Blair	Sept. 13 to Oct. 7, 1867.	Cutting and assorting stone.....	122 88	..... do	May, 1869	122 88	Do.
11	General Cushing...	Oct. 17, 1867.....	Making stand for stove-pipe	1 66	..... do	June 28, 1870.....	1 66	Do.
12	Wm. G. Steinmetz.	Nov. 11, 1867, to March 26, 1870.	Making tin boards, picture frames, altering stoves, painting, and materials.	18 52	..... do	June 8, 1870.....	18 52	Do.
13	W. H. Seward.....	Dec. 21, 1867, and Nov. 26, 1868.	Repairing steps and fireplace and damages by fire	21 77	By cash.....	April 2, 1870	21 70	$0 07
14	S. C. Pomeroy.....	Dec. 31, 1867	One walnut case.....	481 05	By check placed in the hands of disbursing agent.	July 31, 1868	481 05	Balanced.
15	Hon. Chas. Sumner.	March 4, 1868.....	Black walnut desk and case	624 13	By cash, as above..	March 13, 1868.....	624 13	Do.
16	H. R. Hulburd	Dec. 19 and 20, 1867.	Cutting carriage step.....	10 50	.....do	April 1, 1869.....	10 50	Do.
17	Samuel F. Carr....	April 19, 1867, to July 27, 1868.	Teaming, repairing water-closet and bath-tub.....	13 91	By cash.....	June 27, 1870	13 91	Do.
18	Hon. Wm. Sprague.	Oct. 21, 1867, to Apr. 13, 1868.	Painting, masonry, and hauling material.....	47 71	Paid by check	July 12, 1869	41 71	Do.
19	James C. Rankin ..	Apr. 6, 1868, to Apr. 10, 1869.	Hauling, making fire-boards, and material.....	14 51	By cash to disbursing clerk.	June 8, 1870	14 51	Do

Statement of work done in the workshops of the Treasury extension for private parties, &c.—Continued.

No.	Name.	Dates at which work was performed.	Nature of the work.	Amount charged.	How paid.	When paid.	Amount.	Balance due.
20	Hon. W. E. Chandler	Oct. 31 to Nov. 29, 1867.	Making plate chest and sundry repairs to furniture	$41 37	By cash to disbursing clerk.	Oct. 31, 1867	$11 37	Do.
						Nov. 30, 1867	30 00	
21	Thomas Feran	Dec. 4 to 10, 1866	Painting	54 69	do	Jan. 15, 1868	54 69	Do.
22	Geo. B. McCartee	Nov. 23, 1866	Labor, &c., on fire-place	3 25	do	August 4, 1869	3 25	Do.
23	H. S. Safford	May 25, 1867, to April 30, 1869.	Paints, oils, and painting glass, making fire-board and picture frames.	14 05	do	June 8, 1870	14 05	Do.
24	Hon. Wm. Johnson	May 20, 1867	One mahogany book-case and boxing	102 37	By cash to Dep't	July 21, 1869	102 37	Do.
25	W. J. C. Duhamel	Oct. 14 to Nov. 23, 1867.	Repairing and painting buggy, &c	30 35				$30 35
26	Geo. O. Evans & Co	Oct. 12, '67, to May 18, 1868.	Experimental gas works for Treasury building	240 66	Contract	unadjusted		Balanced.
27	A. B. Mullett	June 19 to Dec. 30, 1868.	Repairing lounge, refrigerator, and range, and materials for same.	59 93	By cash placed in hands of disbursing clerk.	June 1, 1869	59 93	Do.
28	Committee on Floral Decorations.	May 27, 28, and 29, 1869.	Hauling evergreens and labor supplied	21 75	By cash as in case next preceding.	June 15, 1869	21 75	Do.
29	Chas. H. Parsons	May 21, 1869	One walnut case	137 11	do	May 25, 1869	137 11	
30	Hugh McCulloch	Jan. 1, '66, to March 9, 1869.	For sundry labor and materials furnished	7,826 09	By cash and certificates of deposit brought to the credit of the Treasury extension.	May 9, 1866	310 37	
						Nov. 12, 1866	804 80	
						June 1, 1867	1,778 36	
						Dec. 21, 1867	1,372 82	
						June 16, 1868	253 45	
						April 6, 1869	69 94	
						June 27, 1870	3,236 35	
							7,826 09	Do.

As to the greater expense of furniture made at these workshops, as compared with that made by contract or bought in open market, it is claimed that the greater durability of the former more than compensates for this increased expense. To show this, the following statement was prepared and submitted to the committee, and its accuracy sworn to by the assistant superintendent of work at the Treasury buildings:

Statement in regard to the furniture made in the cabinet shop connected with the Treasury extension, viz:

1st. One desk for Third Auditor, November 29, 1867, $119 37.—This was a large book and file case, 13 feet 6 inches by 11 feet 6 inches, for room 55 of the Third Auditor's Office. The file case, fitted up with pigeon holes, which required a large amount of additional labor and material, and adds not less than twenty per cent. to the cost of an ordinary book-case. This case was made of solid mahogany and in the very best manner, and is now in as good condition as when first constructed.

2d. Two desks for Secretary's Office, January 4. 1869, $322 43 each.—These were two large double standing desks for four clerks, with rollers for books, &c., made under special instructions and of the best mahogany, or, in other words, double the number of desks stated by Mr. Oertly.

3d. Two desks for Architect's Office, $330 57 each.—These were two large double desks for four clerks, or for twice as many single desks as were given by Mr. Oertly.

4th. Two standing desks for Fourth Auditor, $500 12½ each.—These were two double standing desks for Fourth Auditor, one side 13 feet, and the other 17 feet 3 inches long; the peculiar nature of the business for which they are used requiring desks of this size. They would give ample accommodation for seven clerks engaged in ordinary business.

5th. One walnut book-case for Light-house Board.—This was a walnut desk and file case combined, and of a special finish.

6th. One mahogany book-case for Treasurer, $849 33.—This was a large book and file case, 10 feet 4 inches by 13 feet, fitted with pigeon-holes, which, as before said, largely increases the cost of such a piece of furniture over one fitted up in the ordinary manner, with the same external appearance.

7th. One case for Fourth Auditor, $4,098 56.—This covers four cases for Fourth Auditor's Office, 20 feet 6 inches long by 13 feet high, two being placed back to back between doors 27 and 29, and two between doors 23 and 25, first floor, each case being fitted up with pigeon-holes and shelves for books, thus making four cases instead of one, as stated by Mr. Oertly.

8th. One case for Fourth Auditor, $1,182 91.—This case covers the entire superficial area of one end of a room 20 feet 6 inches long by 13 feet high, fitted up with pigeon-holes and shelves.

9th. One case and desk for Fourth Auditor, $1,104 70.—This is also a case covering the side of a room 20 feet 6 inches long by 13 feet high. This case has about the double depth of any of the other cases.

10th. One case, $913 75.—This is the case for the warrant room, 20 feet 6 inches long and 13 feet high, of solid mahogany, fitted up with pigeon-holes and shelves. This case has been made over two years ago, and removed from another room to the present place, and is in excellent condition.

All of the furniture specified above is made of the very best quality of seasoned mahogany lumber, and in the best manner. Though much of it was made some years ago, and exposed to the dry heat of the Treasury building, it is all now in practically as good condition as when first constructed, and will last many years. I now desire to call your special attention to the furniture made under contract for the Treasury Department, of which a great part was ordered and paid through Mr. Oertly during the time he was in charge of the office of Supervising Architect. But few of the articles remain in the building, most of them having become entirely useless and been removed. Of those that remain I will mention the following:

1865.—Book-case for Register's Office, 11 by 15 feet, made of cherry, without pigeon-holes, cost $650, or at the rate of $4 17 per superficial foot. The doors are badly shrunk, locks out of order, and the case generally in bad condition.

A solid mahogany case, 12 by 20 feet, of same construction, made in Treasury extension shops for Comptroller of the Currency, cost $961 52, at the rate of $4 06 per superficial foot.

1866.—A second case of same material and construction for Register's Office, 11 by 12 feet, cost $650, or at the rate of $4 92 per superficial foot. Treasury extension case, of same kind, for Register's Office. 12 by 12, sash doors, and of solid mahogany, cost $611, at the rate of $4 24 per superficial foot.

1866.—Two book-cases of ash, 11 by 12 feet, for Register's Office, cost $1,000, at the rate of $3 78 per superficial foot. One of which cases has pigeon-holes. Both of

these cases are in very bad condition; doors do not fit and the locks are out of order.

Similar case, of solid mahogany, made at Treasury extension shops, for warrant room, at a cost of $913 75, at the rate of $3 70 per superficial foot.

1866.—Two double cases of pine for Light-house Board, partly full of pigeon-holes, under contract with A. Grant, cost $2,430 70, or at the rate of $3 39 per superficial foot. Vouchers for these cases certified to by Mr. Oertly. These cases are now entirely worthless.

One double ash case, full of pigeon-holes, made in Treasury extension shops for Solicitor's Office, 12 by 40, cost $1,609 42, at the rate of $3 36 per superficial foot.

Two mahogany cases, made by E. H. King, for Commissioner of Customs, 13 feet by 14 feet 3 inches each, cost for both $2,012 24, with pigeon-holes, at the rate of $5 43 per superficial foot.

One book and file case of mahogany for Third Auditor's Office, 11 feet 6 inches by 13 feet six inches, with pigeon-holes, made in the shops of the Treasury extension, at the cost of $719 37, at the rate of $4 74 per superficial foot.

One ash case for room 10, second story, 12 by 20 feet 6 inches, less 16 feet square left out in center, made by T. J. Suter, cost $1,000, no pigeon-holes, at the rate of $5 per superficial foot. Contract awarded by Mr. Oertly.

One mahogany case for Fourth Auditor's Office, paymaster's division, with large pigeon-holes, 20 feet 6 inches by 13 feet, cost $1,104, at the rate of $4 10 per superficial foot. Made in Treasury extension shops.

One mahogany double case for Fourth Auditor, each 20 feet 6 inches by 13 feet, cost $2,049 28, at the rate of $3 84 per superficial foot. Made in the Treasury extension shops.

In conclusion, I have to state that all the furniture made in the shops of the Treasury extension is in excellent condition, and needs almost no repairs, while that made outside of the Department was and is in constant need of repair.

I am, very respectfully,

W. G. STEINMETZ,
Assistant Superintendent and Sworn Measurer.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

From a personal examination made by the committee of the furniture above referred to, the committee believe the above statement to give a correct idea of the relative value of the two classes of furniture.

With regard to the work done at the photographic establishment under the charge of the Supervising Architect, and its extent, value, and cost, the committee cannot do better than to submit the following letter of the Supervising Architect with respect thereto:

TREASURY DEPARTMENT,
Office of Supervising Architect, June 4, 1870.

SIR: I have to acknowledge the receipt of your letter of the 28th ultimo, and to say, in reply, that I have been unable to furnish the information desired by you, in consequence of my absence in the South.

With regard to your inquiries, I have to say that the expenses of the photographic establishment are not chargeable to any of the public works, the office being duly authorized by law as a portion of the office of the Secretary of the Treasury, the general supervision of it being vested in this office. As a consequence, the expenses for stationery, paper, &c., are payable out of the appropriation for the contingent expenses of the Secretary's office, and, therefore, no specific account has been kept of the number of drawings for the different buildings, an aggregate list only of the drawings being kept, except where the work is done for other Departments or Bureaus.

The expenses of the office per annum are as follows, viz:

Salary of photographer	$2,500 00
Salary of assistant photographer	1,374 43
Salary of second assistant photographer	832 00
Albumen and all other paper	304 35
Granulated silver	278 93
Gold	128 05
Chemicals, &c	69 30
Muslin	56 10
Total	5,543 16

The following is the number of photographs that have been prepared, viz:

Of architectural and miscellaneous drawings	15,459
Of counterfeit notes for Treasurer United States	572
Of drawings for architect United States Capitol	182
Of drawings for Light-house Board	121
Of drawings for revenue marine	119
Of maps of postal routes for Post Office Department	135

There have also been prepared 900 negatives, which form a part of the stock of the office, that will enable us to reproduce any drawing, that has been prepared at any time, at a nominal expense. These negatives alone are worth to-day to the Government more than the entire expense of the photographic office. By them the Department can reproduce for a few cents drawings that would cost from five to fifty dollars to reproduce in any other manner, except by lithography, which has been found by experiment to be more tedious, more costly, less accurate, and in every way inferior for our purposes to the present system. As regards the cost of the work, its cheapness is so well understood that the Department is compelled to decline, almost daily, applications from private parties to do work for them, the cost to be paid into the Treasury.

I may also add that during the war all the military maps were photographed in this office. This, you will readily perceive, was one of the most confidential positions that existed at that time, as the maps were of so secret a nature that even cabinet ministers were not allowed access to them, except by permission of the War Department.

It would be absolutely impossible to transact the business of the office with any degree of promptness, regularity, or economy without this establishment; and I may also add that it is in almost daily use in photographing original papers, vouchers, bonds, notes, and other documents for use in the United States courts in important suits, as well as for the use of the secret service division.

I regret that the information cannot be given you in a more accurate form, but to do so would involve the services of an additional clerk, the business done being sufficient to employ the entire time of one man to keep such a record as your committee desires. The advantages to be derived from this would not, in my opinion, justify such an expenditure; but should your committee deem it advisable, I should be very glad to avail myself of such an appointment.

In addition to the duties I have already specified, the large working drawings of the office, and maps for the use of the Department, are all backed with linen in that establishment, which alone occupies the greater part of the labor of one man.

Trusting this information will prove sufficient for your purpose, I remain,

Very respectfully,

A. B. MULLETT, *Supervising Architect.*

Hon. JOHN C. CHURCHILL,
Chairman Committee on Expenditures
on Public Buildings, House of Representatives.

The attention of the committee was also called to certain patent-rights owned at one time by the Supervising Architect, and sold by him to parties who, it was alleged, afterward sold the right to use these patents to the Treasury Department at an exorbitant price, in which price, it was further alleged, the Supervising Architect had a secret interest. The first of these was an improvement in locks patented by the Supervising Architect, and by which the key could not be withdrawn from the lock without locking it. This was sold to the Johnson Rotary Lock Company for $1,000. It appears from the evidence that the improvement was a substantial one, and that this company had sold locks largely to the Treasury Department before as well as after the sale of this patent to them, and not more largely after than before; and the committee think the evidence shows nothing improper in the transaction, except that such a sale by an officer of the Government having control of large purchases for its use, to a firm where he was accustomed to make such purchases, would readily furnish occasion of suspicion of unworthy motives on his part.

Another somewhat similar case was the sale by the Supervising Architect to A. R. Shepherd of a half interest in two patents, one for a patent roofing, and the other for a patent anti-freezing pipe. These patents had been procured by E. P. Vaux, whose claims had been at first rejected

by the Patent Office, on the ground that they covered nothing novel; but afterward, with some advice and assistance from the Supervising Architect, patents were obtained, and a half interest conveyed to him in compensation for such assistance. This half interest was conveyed to A. R. Shepherd, in April, 1869, for $6,000, and about three months afterward a contract was entered into with the owners of the patent, including Shepherd, by which they were to do such work in roofing and plumbing as the Government might assign them, and apply these patents to such work, and to receive in addition to the net actual cost of labor and material fifteen per cent., and, in addition, ten cents for each lineal foot of piping and for each square foot of roofing. The amount realized by the owners of these patents, for royalty, under this contract, in less than one year, was $5,615 65, as appears from the following statement:

Marine hospital, Portland, Maine, royalty on roofing	$915 80
Court-house and post office, Portland, Maine, royalty on roofing	245 50
Same building, royalty on pipe	64 00
Custom-house, Portland, Maine, royalty on roofing	181 10
Same building, royalty on pipe	93 60
Custom-house, Portsmouth, New Hampshire, royalty on roofing	675 00
Custom-house and post office, New Haven, Connecticut, royalty on roofing	672 60
Same building, royalty on pipe	28 80
Custom-house and post office, Richmond, Virginia, royalty on roofing	865 00
Same building, royalty on pipe	112 20
Court-house, Madison, Wisconsin, royalty on roofing	722 30
Custom-house, Cairo, Illinois, royalty on roofing	270 95
Court-house and post office, Des Moines, Iowa, royalty on roofing	758 80
Total	5,615 65

This seems to have been an excessive price to pay for the use of patents of such questionable validity, as the evidence shows them to have been; and the making of such a contract almost immediately after the sale to Shepherd is calculated to excite suspicion that that was intended to be done when the sale was made. The parties all deny any such intention, and the committee know how unsafe is the rule—*post hoc ergo propter hoc;* but they believe it would be wise for the Government to cancel this contract, and to adopt as a rule that the use of no patent should be paid for by any officer of the Government to whom the same or any interest therein had belonged during his official term. Soon after the examination of Mr. Shepherd by the committee, this contract was modified by the order of the Secretary of the Treasury so as to reduce the royalty for use of the patents one-half, or to five cents per foot; and also to make the fifteen per cent. addition applicable only to actual cost of labor and of materials, and not to include railroad fare and expenses of workmen, as had before been done.

The committee in making their investigations have been impressed with the absence of any legal provisions regulating the action of the Treasury Department, or of the Supervising Architect, in the erection and repair of public buildings, and as the expenditures for these purposes amount to millions annually, and are not likely to be lessened for many years to come, it is a matter of very great importance. The method of doing the work on these buildings by the day makes it the interest of all parties, superintendents, foremen, and laborers, to protract as long as possible the work; and this work is being done at such remote points that it is impossible for an officer in Washington, however vigilant and faithful, to correct or control this tendency. They also believe that in most places of sufficient population to require the erection of Govern-

ment buildings, intelligent and responsible contractors can be found who would carry out the plans of the Government, and at a cost much less than the Government could do for itself. It is further necessary, if economy is to be studied in the erecting of these buildings, that their cost should be within the control of Congress, and that the limits placed by it upon expenditures for these purposes should be strictly observed. To aid in accomplishing these objects, the committee have prepared the accompanying bill, which they submit to the House, and recommend its passage:

AN ACT to establish a Board of Commissioners of Public Buildings, and to limit the cost of buildings erected for the use of the Treasury, Interior, and Post Office Departments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury, the Postmaster General, and the Attorney General, shall constitute and be a board, to be called the Commissioners of Public Buildings, and as such shall have under their charge the erection, care, maintenance, and repair of all buildings erected or to be erected for the use of their respective Departments, or of either of them, and of all buildings heretofore under the charge of the construction branch of the Treasury Department, and the Supervising Architect of the Treasury shall be the secretary of the said board, and shall conduct its correspondence and superintend its business, subject to the orders of said board and to such regulations, not inconsistent with law, as the said board shall from time to time establish. The officers, clerks, and messengers of the construction branch of the Treasury Department shall be the officers, clerks, and messengers of the said board, and, with the Supervising Architect, shall be appointed by the said board.

SEC. 2. *And be it further enacted*, That it shall be the duty of the said board to report annually to Congress (which report shall form a part of the annual report of the Secretary of the Treasury) the transactions of the said board for the previous fiscal year, the condition of the public buildings under its charge, and the expenditures thereon, and, when the same are in process of erection, estimates of the sums necessary to complete the same, and also of the sums necessary or proper to be expended on each during the next fiscal year, with a statement of the original estimates of the cost of the said works, and of the sums expended thereon to the date of said report; and also to report from time to time, when requested so to do by either House of Congress, carefully prepared estimates of the probable cost of buildings proposed to be erected for the use of the Departments hereinbefore mentioned, or either of them, with a statement of the population of the cities or towns in which such erection is proposed to be made; whether suitable buildings can be rented for the accommodation of the business of the said Departments, and if so, at what cost; and whether, in the judgment of the said board, the public interest requires the erection by the United States of the proposed buildings.

SEC. 3. *And be it further enacted*, That no appropriation shall be made for the commencement of the erection of any building for the use of the Departments hereinbefore mentioned, or either of them, until a report has been received from said board as to the necessity of such erection and the reasons therefor, if such necessity exists, and the several matters with respect thereto referred to in the last preceding section, including carefully prepared plans of such buildings as in the judgment of said board the public interest may require, with estimates of their probable

cost; and such appropriation shall limit by its terms the amount to be expended in the erection of said building.

SEC. 4. *And be it further enacted*, That no part of any appropriation for the commencement of the erection of any such building (except for the purchase of a site therefor) shall be expended until full plans for such building have been prepared and submitted to and approved and adopted by said board, with carefully prepared estimates of the cost of the same, and no plans for such building shall be adopted by said board, the estimates of the cost of which shall exceed the amount limited by the terms of said appropriation for the cost of said building.

SEC. 5. *And be it further enacted*, That before any part of any appropriation for the commencement of any such building shall be expended, (except for the purchase of a site as aforesaid,) the said Supervising Architect, under regulations to be adopted by said board, shall advertise for proposals for the erection of said building, according to the plans adopted by said board, which advertisement shall invite proposals for the completion of said building according to said plans, including the furnishing the materials therefor; and also separate proposals for furnishing the materials and labor necessary in the erection of said building or any part thereof by classes; and the lowest bid for the erection of such building, or separate bids which, taken together, shall be the lowest bid for such erection, if made in accordance with the regulations of the board, and accompanied by proper security, and not exceeding the sum limited in the appropriation for the cost of said building, shall be accepted, unless the said board, for cause shown, shall specially order otherwise. The board may reject any proposal received by them for the erection of such buildings, and may advertise for new proposals, but in no case shall the lowest bid for such work and materials be rejected except with the assent and approval of the board, and no proposals shall be accepted which shall exceed the sum limited as aforesaid for the cost of such building.

SEC. 6. *And be it further enacted*, That this act shall apply to buildings now in process of erection, except as to contracts heretofore made and now in force. Whenever it shall become necessary to repair any building heretofore or hereafter erected for the use of said Departments, or either of them, the estimated cost of which repairs shall exceed one thousand dollars, it shall be the duty of the Supervising Architect to advertise for proposals for making such repairs; and the lowest bid received therefor, made in accordance with the regulations of the board, shall be accepted, unless the said board, for cause shown, shall specially order otherwise; and such order and the reasons therefor shall be stated in their annual report.

SEC. 7. *And be it further enacted*, That the said board may adopt regulations not inconsistent with law to govern the action of the Supervising Architect in advertising for proposals and in erecting and repairing the buildings under their charge, and the annual report of said board shall contain an abstract of all bids received by them for the erection or repair of the buildings under their charge, and shall designate what bid, if any, in each case, has been accepted; and when the bid so accepted shall not be the lowest bid offered, the reasons for rejecting such lower bid or bids.

TESTIMONY.

WASHINGTON, *April* 11, 1870.

A. B. MULLETT sworn and examined.

By the CHAIRMAN:

Question. What is your position?—Answer. Supervising Architect of the Treasury.

Q. How long have you occupied that position?—A. About three years.

Q. You had been employed in the office of the former Supervising Architect before being yourself appointed to that position, I understand?—A. Yes, sir; I had been assistant for some time.

Q. For how long?—Two or three years, I think—perhaps it may have been more.

Q. Mr. Mullett, will you please state to the committee, as concisely as you can, the history of the St. Paul, Minnesota, custom-house, and your dealings in connection therewith?—A. The appropriation for the St. Paul custom-house was made before the close of the war—how long before, I forget; it can readily be found by referring to the proceedings of Congress. After the war closed the question was called up in the Department, and by the Minnesota delegation in Congress, urging that the work be commenced. The Secretary decided that I should go and make an examination. But, first, Mr. Knox, of our Department, was sent out by Mr. McCulloch, as special agent, to select a site. This was in the fall of 1867. He selected a site, which was purchased; and then I was to go out to make a preliminary examination. But circumstances arose which rendered it impossible for me to go, and so Mr. Oertly went out and made that report to me. Mr. Oertly had written instructions from the Secretary.

Q. Let me understand: What was the first connection of your office with this building?—A. The sending out of Mr. Oertly to make the preliminary examination.

Q. Did you have anything to do with sending out Mr. Knox?—A. Mr. Knox was sent out by the Secretary of the Treasury.

Q. Then your connection with the matter commenced with the sending out of Mr. Oertly?—Yes, sir. I do not know who suggested the sending out of Mr. Knox. He had lived there some years. He was at that time a clerk in the Secretary's office; the Secretary had full confidence in him, and thought he was a good man to go, as he was a man of good practical and business talents, well informed as to the value of property, &c.

Mr. Oertley's report was here introduced in evidence, as follows:

"ST. PAUL, MINNESOTA, *September* 7, 1867.

"SIR: In accordance with your instructions of the 27th ultimo, directing me to proceed to St. Paul, Minnesota, and, if (after due examination of the ground and local building facilities) in my opinion advisable, to initiate the commencement of the work on the St. Paul custom-house, and to report, I have the honor to submit herewith the following:

"The site of the building to be erected is admirably chosen; it is on commanding and high ground, almost exactly level, and central both as regards topography and business. Perhaps it had been overlooked at the time of purchase, that the solid ledge of the St. Paul limestone underlies the surface of the lot, at an average depth of not more than 20 inches below said surface. This ledge of rock has a very even thickness, (it extends in exactly parallel sheets up to Minneapolis,) of about 9 feet, and extends under the whole of the lot.

"Though your instructions were to commence operations only in the case that (in my opinion) it would be possible to erect the cellar-walls this fall, I considered the work of excavation of such paramount importance, as to make use of the discretionary powers conferred on me, though it will not be possible to lay a single cellar-wall stone before next spring. I accordingly consulted with the Hon. Senator Ramsey, (who was also anxious for an immediate commencement of the work,) and the various gentlemen to whom you had directed me, as to the selection of a proper superintendent, and saw and conversed with the three principal applicants personally. After due consideration of their present business connections, and an inspection of their works, I selected Augustus F. Knight, esq., as the one who would suit the Department the best. I have the satisfaction to state that my selection met the views of the honorable senator, and those of your friends, as the inclosed letter of Mr. Wheelock addressed to you, but handed to me for opening, will prove. I had made the selection, entirely unbiased, before the letter was handed to me.

"The excavation will prove to be our quarry, except for trimming stones; it will furnish

all the cellar-wall stones, the ashlar of the outside walls, the backing of ditto, and the top courses which split to the sizes of bricks will furnish all our arching, and prove by far the superior material to the miserable bricks which can be obtained. The stones need but being got out by an experienced quarryman, and properly selected and assorted, and the bulk of the material for the whole structure will be obtained from the excavation without any extra cost of labor; the disposal of the surplus rock, for which a ready sale can be had, will go far to defray the expenses of the rock excavation. I located the floor of the entrance story 3 feet above curb at intersection of streets; assuming the cellar floor 10 feet below the entrance floor, or 7 feet below curb, we will have an average depth of 5 feet of rock excavation, and will have left the most solid stratum of rock, 4 feet thick, for an unsurpassed foundation. I would not advise to go any deeper than the above. There is immediately under the rock a stratum of clay about 3 feet thick, and under this that enormous bed of the St. Paul, white sand-rock, perhaps 75 feet deep. By the course I propose, all artificial foundations will be dispensed with, more than enough of building materials will be obtained, and the cost of the rock excavation, which increases with the depth, will be a minimum.

"Upon consultation with the honorable Senator and the various public officers, I found that the rooms afforded by the Madison plans would not suffice the service at St. Paul. There are rooms to be provided for the surveyor general and his office, and for the deputy collector of customs, in addition to all the office rooms furnished by the Madison plan. In consideration of this I directed Mr. Knight, as soon as he should receive your orders, to excavate the cellar story 130 feet long; should it ultimately be decided to have no larger building than that at Madison, this additional excavation will serve for coal vaults or areas. But I should regret if the dimensions of the building should not be increased; there is at present a vast difference in the amount of business transactions between Madison and St. Paul, those of the latter place being quadruple those of the former, with all the appearances (at St. Paul) of still more vigorous and immediate growth. I also directed the excavation to be made 75 feet wide, which will give an area of 8 and 10 feet wide on the yard side of the building. No materials (except lumber for sheds) being needed for a long time to come, I left no forms of advertisements nor any directions for such with the superintendent, and herewith inclose a copy of my instructions to him.

"The only stone work which will have to be purchased is that of the trimmings and cornice, and bets, and these stones ought to be selected with the utmost care from the various quarries early in spring, so as to give the quarried stone a chance to dry during the coming summer. Beautiful as the color and the appearance of the St. Paul limestone is, it is a very perishable material, and all trimmings and dressings ought to be avoided or reduced to a minimum. The seams open sometimes after the first winter exposure, and whole slices of moldings, base courses, &c., fall off. Complete wrecks of stones can be seen in buildings but a few years old. The only proper finish is the rough Russica, or rough ashlar, (random or coursed,) with trimmings shielded as much as possible. Whatever may spawl off the rough ashlar it does not injure the character or the looks of the work, and some of the churches erected in this manner by Mr. Knight look truly beautiful. For whatever trimmings may be introduced into the design, I would advise to arrange them all for the 7-inch stratum of stone, as this one is the freest of seams, and the most uniform. We will be sorely in need of good stones for the water-table: and hearing accidentally that a bed of granite had been discovered by the Pacific Railroad Company on their line of road, some thirty miles above St. Paul, I asked Mr. Knight to procure a sample of the same and transmit it to you.

"Should the granite prove worthy of quarrying, it would be a magnificent acquisition to western building materials, and just the thing for our sub-base, steps, coping and curbing, (perhaps even string-courses and trimmings,) because for all of the above uses the St. Paul stone is utterly unfit.

"There will be no difficulty in draining the building; it is but necessary to sink a small shaft through the rock, down to the sand rock, and in this latter the St. Paul pioneers burrow with the facility of moles, in any direction and to any depth, and it is not even necessary to line these sand tunnels; at least none of those in operation for several years have been lined and appear to be in perfect order yet. We will be able to effect the drainage of the building at a cost not exceeding $500. As there are no water-works in St. Paul, and none in prospect, a large cistern will become necessary. This, of whatever capacity may be decided upon, say from 10,000 to 15,000 gallons, will be treated somewhat like the sewers; it must be located underneath the limestone stratum and into the sand. A manhole through the rock will be required for getting the sand out and the lining materials in, the stratum of lime rock will form the cover of the cistern, and nothing will be required but the excavation of the sand and the lining, all of which can and ought to be done during winter. Some of the beer-cellars they have in the above sand rock, cut out with the utmost of care by common laborers and without any lining or vaulting at all, are really wonderful in this wonderful country.

"Taking everything into consideration, viz., the extensive rock excavation, the drainage, construction of the cistern, assorting, selection and partial dressing of the material, all of which can and ought to be done this fall and during the coming winter, and which if not

done now will throw all operations for the superstructure into the latter part of the season 1868, I hope you will approve of my action.

"Very respectfully,

"B. OERTLY.
"*Assistant Supervising Architect.*

"A. B. MULLETT, Esq.,
"*Supervising Architect, Treasury Department, Washington, D. C.*

"P. S.—I herewith return tin box with drawings, (for which I have no further use,) with a few small specimens of the saud rock underlying the limestone. The deeds for the lot never having been returned to St. Paul for recording, the Senator would thank you for immediate attention to the matter.

"Hope to be in Madison Monday 9th, and in Springfield 11th, but depend in a measure on good luck on the Mississippi, as every boat gets stuck in the mud, on account of low water, and gets detained beyond calculation."

Mr. Oertly's directions were simply to go and look over the ground and report with reference to the locality, material, &c. That is the first step taken in all such cases, where important buildings are contemplated; unless we have information sufficiently full and definite to render it unnecessary, which is very rarely the case. On the basis of Mr. Oertly's report I decided generally with reference to the material.

Q. Did you have any correspondence with Mr. Oertly while he was at St. Paul?—A. Not that I recollect; that report shows all that transpired, I believe. There are, however, some statements therein which were not verified in the result. For instance, Mr. Oertly says that the excavation for the foundation of the building will furnish all the stone needed for the building, except the trimmings. That is not the case. Only a portion of the stone is at all suitable for building purposes. The most of it is very inferior—fit only for cellar walls, or some similar use. His suggestion of the use of that stone for arching proved utterly impracticable.

Q. What was the next step taken with reference to the matter?—A. Well, we went on and prepared plans which were approved of in the usual course of business; and having finished excavating, went to work by the day, laying up the cellar walls.

Q. Had you not provided a superintending architect?—A. Yes, sir; I appointed a gentleman by the name of Augustus F. Knight, who had been recommended to me by Mr. Oertly, by telegraph. Knight received his appointment before Mr. Oertly left St. Paul, and has remained superintendent until the present time.

Q. Was Mr. Knight appointed on Mr. Oertly's recommendation alone?—A. No, sir; he was recommended also by Senator Ramsey, and by a gentleman connected with one of the St. Paul papers, named Wheelock. Mr. Knight was an entire stranger to me.

I wrote immediately to Mr. Knight, as follows:

"TREASURY DEPARTMENT, *September* 7, 1867.

"SIR: Inclosed please find your appointment as superintendent of construction of the proposed new court-house and post office building at St. Paul, Minnesota. You will perceive your compensation will date from the receipt of orders to commence work, which, if you have received any instructions from B. Oertly, esq., assistant supervising architect, you will consider are hereby given, and his instructions approved. In this case you will commence operations without delay. If, on the contrary, no instructions were given you by him, you will please inform me by telegraph, when instructions will be forwarded immediately on Mr. Oertly's return.

"Very respectfully,

"A. B. MULLETT,
"*Supervising Architect.*

"AUGUSTUS F. KNIGHT, Esq.,
"*Superintendent Custom-house, &c., St. Paul, Minnesota.*"

Mr. Knight entered upon the duties of his office immediately. As I have mentioned, the excavation for the cellar was made and the cellar walls laid up by the day. We at first supposed, in accordance with Mr. Oertly's report, that the excavation would furnish sufficient lime rock for the building; but Mr. Knight advised us that it would not. We did use a portion of that rock—used all we could; but only about two layers—say, one-sixth or one-eighth of the whole—proved valuable; the rest was worthless, except for "backing" and "filling." It became considerable of a problem what to do for stone for "dressing." We had at one time under consideration the propriety of using Cincinnati freestone—taking it down the Ohio River and up the Mississippi. About this time, I received a letter from a gentleman I used to know in Cincinnati, by the name of Chamberlain, in reference to Minnesota granite. The letter is as follows:

"ST. PAUL, MINNESOTA, *November* 9, 1867.

"FRIEND MULLETT: I came out here last July for the benefit of my health, and expect to reside here for some time. Some of my friends have lately gone into the quarrying business

and organized a company for that purpose, which is perfectly reliable in anything they undertake. They have secured a granite quarry, and forwarded specimens of the stone to your assistant, who located the site for the custom-house in this city. I would like your opinion in regard to the value and suitability of this Minnesota granite for building purposes.

"Yours truly;

"M. B. CHAMBERLAIN.

"A. B. MULLETT, Esq.,
"*Supervising Architect Treasury Department, United States.*"

Q. What further correspondence took place between yourself and the writer of this letter? A. That is all I ever got from him on the subject; he left St. Paul soon after; I never heard anything more from him upon the subject; since then he has died, without having any interest in the matter at all.

Q. Did you answer his letter? A. Yes, sir; I have my answer here.

"TREASURY DEPARTMENT, *November* 16, 1867.

'DEAR SIR: I have to acknowledge the receipt of yours of the 9th instant, and to say in reply, that while the Minnesota granite you refer to would not be considered a first-class stone here, yet, as compared with other samples from your locality, I deem it a valuable acquisition to the building material of the northwest.

"I trust we shall be able to use it for the dressings of the new custom-house in your city. This will depend altogether, however, upon the price at which it can be furnished, and I would suggest that it would be advantageous to the company to put it in at a low figure as an inducement for us to use it. We shall in that case have it cut by first-class workmen, and its fine appearance in a building so widely known as the custom-house will be cannot but aid materially in making the stone popular.

"Very truly yours,

"A. B. MULLETT,
"*Supervising Architect.*

"W. B. CHAMBERLAIN, Esq.,
"*St. Paul, Minnesota.*'

On the 13th of December, Mr. Knight replied to my letter to him, as follows:

"ST. PAUL, MINNESOTA, *December* 13, 1867.

"SIR: Yours of the 5th instant is just received. In answer, I have to say the report for the month of November was duly forwarded on the 6th instant.

"In regard to the cost of granite, from the best of information I can get, after careful inquiry, I estimate the cost, delivered in St. Paul at building site, as follows:

Dimension granite at quarry, estimated at	50 cents per foot.
Transportation by rail, 70 miles	15 cents per foot.
Transportation from depot to building	3 cents per foot.
Total cost per cubic foot	68 cents.

"Very respectfully,

"A. F. KNIGHT,
"*Superintendent United States Custom-house.*

"A. B. MULLETT,
"*Supervising Architect, Washington, D. C.*"

To this letter I replied as follows:

"TREASURY DEPARTMENT, *December* 9, 1867.

"SIR: Yours of the 1st instant is received. In reply, I have to say that it is absolutely necessary that you should obtain an offer from the owners of the granite quarries of the price at which they will agree to furnish the granite for the custom-house under your charge, or I must make other arrangements. I cannot wait while the owners of the quarries experiment on the cost of quarrying and delivering material. I certainly should like to use the material if it can be obtained at a fair price, but I must have an early decision.

"You will please close up work and dismiss all your employés, including the clerk, until the resumption of work in the spring.

"Very respectfully,

"A. B. MULLETT,
"*Supervising Architect.*

"A. F. KNIGHT, Esq.,
"*Superintendent Custom-house, St. Paul, Minnesota.*"

By MR. ELA:

Q. Is that letter in answer to the one from Mr. Knight, read just before, giving an esti mate of the probable price of granite?—A. Yes, sir.

Q. But I see it commences by saying, "Yours of the 1st instant," while Mr. Knight's letter to you is dated December 13th.—A. Well, when I wrote this letter I must have forgotten the date of Mr. Knight's. This is in answer to that, anyway.

Q. But you say to Knight that you "cannot wait while the owners of quarries experiment on the cost of quarrying and delivering material." Now, what had Knight said that called out that expression from you? I do not see anything on that point in his letter of the 13th of December.—A. That, I suppose, refers back to Oertly's letter to me. He says the Pacific Railroad Company had discovered granite on their line of road; and "should it prove worthy of quarrying, it would be a magnificent acquisition to western building materials, and just the thing for our sub-base, steps, coping," &c.

Q. But I do not understand why Knight, in writing to you, should refer to a passage in Oertly's letter to you?—A. O, I suppose these matters had all been talked over between them, while Oertly was up there.

Q. Was there any effort made to get bids from different parties?—A. Yes, sir; Mr. Knight was directed to investigate the whole subject, and see everybody. To the best of my knowledge he complied with those directions.

Q. There are no names mentioned here that I can discover?—A. Well, you have not all the letters there; I did not copy all the letters; I can copy every letter I have got, if you want me to. One thing I want the committee to bear in mind, viz., that this was the first building in the State of Minnesota in which granite was used; the first Government building in which granite from Minnesota quarries was ever used. Again, I would remind the committee of another thing, viz., that we scarcely ever commence a building anywhere but parties try to push new material on us. The whole thing becomes a mere matter of routine with me, and at once passes from my mind.

On the 20th of December, Mr. Knight submitted the following propositions for furnishing granite. He writes:

"ST. PAUL, MINNESOTA, *December* 20, 1867.

"SIR: I have at last succeeded in getting two proposals for furnishing granite for the St. Paul custom-house, which I herewith inclose. Not knowing the dimensions or quantity required, I was unable to give the bidders the information necessary to enable them to make as close a bid as they otherwise might have done. These will, I trust, enable you to decide as to its adoption. Should you require more accurate bids, please send me the approximate sizes and quantity.

"Messrs. Morris and Delano are thoroughly competent and reliable men, and will fulfill any engagement which they may make. I will add in this connection that they are owners of different quarries.

"Very respectfully,

"A. F. KNIGHT,
"*Superintendent United States Custom-house.*

"A. B. MULLETT, Esq.,
"*Supervising Architect, Washington, D. C.*"

The following are the bids or propositions accompanying the above letter:

"ST. PAUL, *December* 19, 1867.

"SIR: Understanding that you may require some granite stone in the construction of the St. Paul custom-house, I have the honor to submit the following proposals for first-class material, delivered on the site of building, Washington street, St. Paul: For all stone—1 by 2, 1 by 3, 1 by 4, 2 by 2, of the lengths from 4 to 10 feet, at the rate, per cubic foot, 56 cents. I am now taking out stone from my quarry for the St. Cloud bridge.

"Respectfully, your obedient servant,

'CHAS. W. F. MORRIS.

"A. F. KNIGHT, Esq.,
"*Architect St. Paul Custom-house.*"

"ST. PAUL, *December* 20, 1867.

"SIR: In reply to your request for a bid to furnish granite for the St. Paul custom-house, I have to say that I will furnish dimension granite, delivered at the custom-house, for and at a price ranging from 35 to 100 cents per cubic foot, according to the size and shape of the blocks required. Without a bill of the sizes I cannot give you an exact figure; but from my knowledge of the work, I should think that about 65 cents per cubic foot would be the price for all required. Will give you the exact figure if you will furnish me an exact bill of the dimensions, and how they are to dress.

"Yours, respectfully,

"D. R. DELANO.

"A. F. KNIGHT, Esq."

Q. Was there never any more definite specification of the class of granite wanted, sizes, &c., than that?—A. Certainly, sir; in the winter we prepared these drawings, and sent them to Mr. Knight.

Q. Were any proposals ever received that have come before the public, except from these two men?—A. Knight was ordered to get all the proposals he could, and I presume he did so.

Q. Do you recollect receiving a letter from a man by the name of T. M. Newson, desiring that, if a new custom-house was to be built, he might have an opportunity to put in a bid?—A. I believe that was the next letter I received from Minnesota.

Q. Is this the letter?—A. Yes, sir.

The letter reads as follows:

"ST. PAUL, MINNESOTA,
"*February* 18, 1868.

"SIR: For four years I acted as commissary and quartermaster in the United States Army. Have a clean release from all my accounts, and my bondsmen have been released. Have been fifteen years in the country. So much for introduction.

"My purpose in writing you is to give you the information that I am the owner of 123 acres of solid granite, at a town called Watab, on the Upper Mississippi. This granite is pronounced to be very excellent, and is the only great upheaval in the Mississippi Valley. David Dale Owen in his official report says, (page 168:) 'Near the road, and about two miles from the Osakis (Sauk) Rapids, there rises out of the prairie a dome-shaped mass of syenitic granite, elevated 10 to 12 feet above the level of the plain. It is worthy of notice here as being the first rock found *in situ* on the land route from the Falls of St. Anthony to Crow Wing.' On page 166 he says: 'Seven to eight miles above Osakis (Sauk) Rapids is a high exposure of crystalline rocks. A ridge of hornblende and syenitic greenstone, with veins of granite, bearing north 70° to 80° east, rises on the east side of the Mississippi to the height of 30 to 40 feet, and a short distance further back even to the height of 60 to 70 feet.' Watab is four miles *above* Sauk or Osakis Rapids, and a mile or two below Little Rock, on the Upper Mississippi. It is here where the rock rises from 60 to 70 feet.

"If the custom-house of this city is to be built of granite, I desire an opportunity to put in a bid.

"Respectfully yours,

"T. M. NEWSON,
"*Formerly Brevet Major, Commissary Subsistence United States Army.*

"Hon. A. B. MULLETT,
"*Supervising Architect Treasury Department.*"

By Mr. ELA:

Q. Did Mr Newson have an opportunity to bid?—A. I suppose he had. I cannot answer in regard to these minor particulars; why, sir, if I endeavored to keep track of all such little matters, it would take twenty supervising architects to perform the business of the office.

Q. Did you answer Mr. Newson's letter of ——?—A. In the mean time I had found out that Newson could not deliver granite.

Q. How did you learn that fact?—A. Why, his quarry is eighteen miles from the railroad.

Q. Is that any reason why he should not have an opportunity offered him to make a bid?—A. Could a man haul granite eighteen miles to a railroad?

Q. Is not granite a movable article as well as brick? You have not yet answered this question. Why was not a public opportunity given for men to bid?—A. It was a small matter, of so little importance, I supposed, being needed only for the dressings of the buildings; and, having an opportunity to get it at lower prices than we were ever able to get it for anywhere else, that it was not deemed worth while to advertise.

Q. Mr. Morris offers to furnish stone for 56 cents; why did you instruct Mr. Knight to pay 65 cents?—A. You understand that the larger the block of granite the more it costs; for that building we needed a great number of large blocks; taking this in consideration, 65 cents for granite, such as we wanted, was actually lower in proportion than 56 cents for such as Morris offers. I considered it extremely low.

Q. Who has made a bid for furnishing the granite on the specifications you have sent out?

A. I don't know; I have told you I cannot carry all these things in my head. I gave Mr. Knight carte blanche to make contracts, not to exceed 65 cents.

Q. Why did you say 65 cents, when here was an offer to furnish it at 56 cents?—A. Because the 56-cent offer was for a size much below what we wanted for the building.

Q. Why, then, was not an opportunity given him to say at what price he would furnish such sized stone as you did want?—A. I don't know but an opportunity was given him. I left that whole matter with Mr. Knight. I tell you, gentlemen, I cannot carry the minute details of transactions connected with twenty buildings a year, that are being put up by the Government, in my head.

Q. What was the size of the stone you used in the building?—A. Well, now, gentlemen, how can I be expected to be able to tell the size of every stone in every building put up by the Government all over the United States? I don't know what sized stone was used. By looking at these drawings ——

Q. But how do you know that this offer was for a different size from what you used, if

you do not know what sizes you used?—A. He restricts the size of the stone to 2 feet square. You will find that this building requires much larger stone.

Q. How large?—A. I cannot tell exactly; but I know they must be a good deal larger.

Q. Were any instructions given by you to Mr. Knight, from December until the contract was closed?—A. None, excepting such as were given in writing.

Q. Then the letters containing those instructions are just what we want; of all the more consequence to us because they contain what your memory cannot carry?—A. I can tell you beforehand, sir, that that is the only letter that has the remotest bearing upon the subject.

Q. Is not the granite quarried out at first in large size, and afterward split up into smaller sizes?—A. That may be true, to some extent; but the cost of splitting is very small, while the cost of handling is very great. If you think I am wrong, you can call in experts; you ought to know something about the matter yourself; you live in the Granite State.

Q. How many of these stones are larger than those mentioned in Mr. Morris's proposition?—A. I cannot say; it was so trivial a matter that I did not burden my mind with it.

Q. What has been the cost of the stone-work, so far?—A. I suppose $10,000. It will not exceed twenty thousand for the whole building. I looked upon it as a contract for $8,000 or $10,000 worth of granite. I am perfectly willing to let you take that schedule of the granite and go to New York and ask parties there if they will furnish it at the prices for which it is being furnished. I knew I was getting it below market prices.

By the CHAIRMAN:

Q. I understand, then, that no advertisements were ever published inviting bids?—A. No, sir; I talked with the Secretary, and he thought it not worth while to invite bids. I thought then that we could do better without advertising, and I think so still.

By Mr. ELA:

Q. How much more expensive would the stone of the sizes you speak of, as being necessary in the building, be, than the sizes Mr. Morris proposed to furnish?—A. More than the difference between the two bids.

Q. How much more?—A. The usual rule is a cent a foot, beyond 20 cubic feet. It varies some according to the quality of the stone. In opening a new quarry like that, large sizes ought to be worth a good deal more. The fact is, as I said before, I gave the matter very little attention; the price was so much lower than we had expected to be able to obtain it for. Why, we were then paying 85 cents per foot in Portland, Maine, for Concord granite. I never supposed there was any dissatisfaction about the matter; never heard of any until a month or two ago, when this notice appeared in one of the papers.

Q. Has Mr. Newson never written you regarding the matter?—A. No, sir; the first intimation I ever had of it was his miserable, filthy, lying communication in the papers there.

Q. If Mr. Newson wrote you a letter, making an offer to furnish granite, and requesting an opportunity to put in a bid, and you replied telling him that he should have an opportunity, and you afterward gave him no opportunity, would not that be sufficient reason why he should not have any further communication with you?—A. I don't think it would; he could have written to the Secretary of the Treasury. I tell you I believe that man has been bribed to do this thing. I regard him as a tool in the hands of this infamous crew that are persecuting me. He is a low, miserable, filthy, lying wretch.

Q. But does he lie when he says you promised to give him an opportunity to bid, and then closed the bargain without giving him any opportunity?—A. I say I would have given him an opportunity, under ordinary circumstances. But I knew it was utterly impossible for him to furnish us granite as cheaply as it was offered us elsewhere.

Q. But the question is, what right had you to assume that he could not furnish you the granite?—A. I have told you the whole matter was turned over to the superintendent, as it is in twenty, thirty, hundreds of other cases.

Q. Is that the usual course, to leave it to the superintendent?—A. If we were in a country where there was any competition, where granite could be supplied by several different parties, we would advertise.

Q. Very well; and do not your letters show that you have three different offers for supplying granite?—A. One of them is from a man who says he has quarry land; but quarry land is not a quarry.

Q. Are there not among your papers three offers to supply granite?—A. No, sir; only two.

Q. Why did you write to Newson that he could have an opportunity to bid?—A. Well, I never knew but what he had had an opportunity to bid.

Q. Who told you there was only one quarry from which stone could be furnished?—A. I cannot tell you now; that is a matter that occurred two years ago.

Q. It seems that the information came to you in such an authoritative shape that you acted upon it?—A. Well, Rankin, my assistant, was up there three weeks, and he repeats that information to me now.

WASHINGTON, *April* 12, 1870.

A. F. KNIGHT sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?—Answer. At St. Paul, Minnesota.

Q. By profession an architect?—A. Yes, sir.

Q. How long have you practiced the profession?—A. Since 1854; have been in business on my own account since 1857.

Q. What is your present position?—A. Superintendent of the St. Paul custom-house.

Q. When did you receive your appointment as such?—A. In the latter part of 1867, September 15th; the exact date I do not remember.

Q. What was your first service as superintendent?—A. It was to organize a force of workmen, to ascertain how the material could best be conveyed to the ground, to provide for the foundation of the building, &c.

Q. When did you commence work on the foundation?—A. I think in September, 1867.

Q. Was there any work done during that fall?—A. About two-thirds of the excavation was made.

Q. Of what material was the substance excavated?—A. About one foot was earth, loam, and about half a foot of loose shell rock, and underneath that lime rock.

Q. What was the depth of the entire excavation?—A. About 8 feet 4 or 6 inches.

Q. What use was made of the lime rock which was taken out of the excavation?—A. It was piled adjacent to the building, such of it as could be of any use; the rubbish was dumped in the street in close proximity. Just below the site of the custom-house there is a depression in the grade of the streets, and this waste material was placed there to raise the streets to grade.

Q. What proportion of the lime rock obtained by the excavation was subsequently used in the construction of the building?—A. Not much; there is considerable limestone there yet, which it was at first thought might be susceptible of being used in the building, but which cannot. I suppose about one half of the quantity at present on hand may be put to some use somewhere in the building. But very little of it has been used for face work. So far as we have used it it has been for backing, so called.

Q. Wnat proportion can be used for face work?—A. I should say about one-eighth: it is next to impossible to judge of that. I can only judge of it from the result so far as I have gone into one of the piles.

Q. What is the character of the rock at St. Paul and vicinity?—A. It is all lime rock.

Q. Is the quality fit for building purposes?—A. Yes, sir; not first-rate, but fair; will do for ordinary buildings.

Q. What is the character of the stone taken from this excavation?—A. Some of it is very good stone. There is a layer about two-thirds of the way down from the top which can be made useful in many parts of the building; some of the rest of it will do for common rubble stone. Some of it is of the kind that is used about St. Paul as a foundation for cheap wooden houses, for cellars, &c.

Q. You say that one-eighth of the stone taken from this excavation is of a kind fit for facings?—A. Yes, sir. For facings we need stones sometimes 10 to 12 inches thick; but in this cellar excavation there are none above 8 inches thick, and those not very sound. Some of it will do for some portions of the face work; we are using it for that purpose. It is as durable as the other stone we are getting, and more easily handled and worked, because it splits to nearly the proper thickness.

Q. What proportion of the stone excavated can you use in any way?—A. I do not think we have used one-fourth of the stone excavated so far.

Q. Are your arrangements such that all the stone from that excavation that is fit to be used will be used?—A. Yes, sir; but we will have to purchase more elsewhere for facings.

Q. When did you commence the laying of the foundation of the building?—A. In the spring of 1868.

Q. You have purchased then, I infer, a large part of the limestone which has been used in the construction of the building thus far?—A. I think I have purchased about 1,000 or 1,500 feet of limestone only.

Q. Did you purchase or lease a quarry?—A. I leased a quarry.

Q. How far from the building?—A. About six or seven blocks; equal to 2,400 or 2,500 feet, I should think.

Q. Of whom did you lease?—A. From William F. Davidson.

Q. By written lease?—A. No, sir, by a verbal lease.

Q. When was that lease made?—A. About the time the foundation was commenced; in the fall of 1867.

Q. Can you state the terms of the lease?—A. I was to pay 3 cents a cubic foot for the rock measured in the quarry, not counting the stripping; that is, I was to pay for the quarry solid, 3 cents a foot for the cubic contents of the place from which the stone was taken out.

Q. That is, you were to strip the quarry at your own expense, and be at your own expense in getting out the stone, and then to pay 3 cents a cubic foot for all the stone that you found suitable for the building?—A. Yes, sir.

Q. Not paying for the waste?—A. Yes, sir, paying for the waste.
Q. What did you do with the waste?—A. Some of it was piled up in a refuse pile near the building: some of it was dumped into the street.
Q. What was the object of hauling this refuse, when you had more refuse already than you could use?—A. It struck me that that pile was growing smaller, so I set teams to work and hauled this refuse down there.
Q. Was this price of three cents a cubic foot to apply to stone that you took off in stripping before you got down to layers of rock that you could use?—A. No, sir.
Q. Where was the measurement of rock to be made?—A. In the quarry. I would say that they have an established rule of measurement there which I adopted, and also their price.

By Mr. ELA:

Q. You said you did not pay for the poor rock that you stripped off from the good; who had the benefit of that?—A. Nobody; it was of no use to anybody. I had to dispose of it, to get it out of the way at the nearest point.
Q. All of it?—A. Yes, sir.
Q. Was not a portion of this, before you got down to the rock that was fit for use as facing, good for other purposes?—A. Yes, sir.
Q. What did you do with that?—A. Piled it up adjoining the quarry, and afterward hauled it to the refuse pile.
Q. How much of that surface was of that kind of stripping?—A. I should say perhaps 25 or 30 yards.
Q. For how many feet in depth?—A. Not a foot; some 6 or 7 or 8 inches.
Q. Then you came to good stone?—A. Yes, sir.
Q. There was not much stripping then?—A. There were about 20 inches of stripping of earth before coming to any stone at all.
Q. So the entire waste in stripping was 18 or 20 inches of earth and about 6 inches of stone?—A. Yes, sir.
Q. How deep in the ledge did the stone run which you could use for backing before coming to the stone which could be used for facing?—A. About 2½ feet.
Q. How thick was that portion of the ledge which was fit for use in the building for facings?—A. About 3 or 3½ feet.
Q. Why go below 3½ feet of first-rate stone?—A. Well, we had to take the quarry—the whole or none.
Q. What was the total depth to which you went?—A. Thirteen or fifteen feet.
Q. What was the size of this quarry—the superficial extent?—A. There are papers here that will tell. I should say something like 28 or 30 feet each way.
Q. And you were obliged to go to the bottom of the ledge?—A. I do not remember whether we were obliged to go to the bottom of the ledge or not.
Q. And these were the best terms you could get?—A. I thought so, sir.
Q. Could nobody else be found to compete when hundreds of acres of land were underlaid by limestone?—A. There were other quarries, but they were all leased; parties were working in them.
Q. Had this not been opened at all?—A. Oh, yes, it was well opened; others were working in other parts of the quarry.
Q. Then you only leased a portion of the quarry?—A. Yes, sir; but we were to have as much more in that corner as we required, but must take it out in the same manner.
Q. It was a lease of a quarry already opened and being worked?—A. Yes, sir, with the privilege of more.
Q. Well, were there not other quarries whose owners would have been glad to have competed?—A. I think not.
Q. Did you make any effort to find out?—A. I am familiar with the quarries and with the persons owning quarries, and am sure that no better terms could have been made.
Q. Did you make any effort to obtain bids from the owners or lessees of limestone quarries elsewhere?—A. No, sir.
Q. How long did you continue to work this quarry yourself?—A. Till all, or nearly all, the stone had been taken out.
Q. That is from that space of 28 by 30 feet?—A. Whatever it was; I did not intend to give the exact figures. The cold weather came on just before I got out the last of the ledge.
Q. Do I understand that you had exhausted the quarry substantially, so far as that 28 by 30 feet was concerned?—A. Yes, sir.
Q. Did not the stripping of that portion of the quarry render it easier and cheaper to work the adjacent portion of the quarry than if you had not worked this portion?—A. Perhaps it would make a little difference.
Q. Why did you not continue to obtain your stone in that way under that lease?—A. I think I found that I had all the backing necessary, and that to get any more from that quarry would be merely to accumulate more material of that kind on the ground than could be used in the building, and so concluded that thereafter I would purchase such rock only

as would be wanted, and on representing the facts was ordered to do so by the Supervising Architect.

Q. Did you make an agreement to purchase?—A. Yes, sir.

Q. From whom?—A. From William F. Davidson

Q. When was that contract made?—A. In the spring of 1869.

Q. In writing?—A. No, sir.

Q. Verbally?—A. Yes, sir.

Q. What were the terms of that contract?—A. To the best of my recollection, I pay 31 cents a cubic foot; I may be wrong in that figure, however. I can tell by reference to the papers.

Q. Have you not been paying for stone?—A. Yes, sir; but I always refer to those papers—at least whenever there is any doubt.

Q. What was the stone for which you paid that price—stone to be used for facing only?—A. Yes, sir; any other kind, if sent, was rejected.

Q. How much stone have you received under that verbal contract?—A. A thousand to twelve or thirteen hundred feet.

Q. Less than 1,500?—A. Yes, sir. I made arrangements at first for a thousand feet, but I found that was not enough and got some more.

Q. How was that contract; for only so much stone as you were pleased to order?—A. The contract was for a thousand feet, with the privilege of more.

Q. Was there anything in the contract as to dimensions?—A. No, sir; except that they were to be of large size, to be cut up to suit.

Q. Was any opportunity given to other parties to compete for the furnishing of this limestone after you concluded to give up the other quarry?—A. Yes, sir.

Q. What opportunity?—A. I examined another quarry in a different direction, just opening or partly opened; I asked the party opening it to bid if he wished, but he declined to do so. I afterward made another examination of the same quarry, before letting the work, and found that the stone would not do, because it was of a darker color; it would not match that already in the building. I do not know but that it was otherwise as good a stone as any.

Q. Was any advertisement published asking for proposals for limestone?—A. I do not recollect whether I advertised or not.

Q. This was only a year ago, was it not?—A. My recollection is not definite.

Q. Have you any recollection of advertising?—A. I have not.

Q. Did any party speak to you desiring an opportunity for bidding for limestone?—A. Yes, sir.

Q. Who?—A. A man by the name of O'Brien.

Q. When?—A. In the spring of 1869, I think.

Q. Before you made this arrangement for the thousand feet with Mr. Davidson?—A. I believe so.

Q. What proposals did Mr. O'Brien make?—A. He made none.

Q. You say he desired to make a proposal; did he have an opportunity?—A. Yes, sir.

Q. State what took place in regard to the matter.—A. I told him I had examined his quarry, and found that the color of the stone was unsuitable, (too dark,) and would not match with the stone already in the building.

Q. Oh, he was the owner of the quarry you spoke of a little while ago?—A. Yes, sir.

Q. Did any other person speak to you about proposals for limestone?—A. Not that I remember.

Q. What other material do you use for the walls of this building beside limestone?—A. Brick and granite.

Q. Where is the granite procured?—A. On the line of the St. Paul and Pacific Railroad, sixty-eight miles above St. Paul.

Q. What is the name of the place?—A. It is on the prairie—has no name that I know of.

Q. By whom is it furnished?—A. The man's name is F. R. Delano.

Q. Are there any other granite quarries in that vicinity?—A. There are other granite ledges, but none worked that I know of.

Q. Is this quarry owned by Mr. Delano or does he represent a company?—A. I believe he represents a company, though I do not know that as a fact.

Q. What is the name of the company?—A. The Minnesota Granite Company.

Q. Is that a corporate body under the laws of the State?—A. I do not know whether it is incorporated or not.

Q. Are there not other quarries in the State?—A. None that I know of.

Q. How extensive are these granite ledges?—A. There are numbers of them scattered over a considerable extent of country. This one covers, coming out here and there in different spots, 20 or 30 acres, perhaps more.

Q. When did you first begin to receive the granite for the building?—A. I think in June of 1868.

Q. Is that granite obtained for the building under a contract?—A. Yes, sir.

Q. Is this a copy of the contract?—A. Yes, sir.

"*Contract between the United States of America and F. R Delano.*

"This contract, made and entered into by and between A. F. Knight, superintendent of construction of the United States custom-house and post office in the city of St. Paul, State of Minnesota, for and in behalf of the United States of America, of the first part, and F. R. Delano, of the county of Ramsey, State of Minnesota, to whom was awarded contract for furnishing all the granite in rough for the said United States custom-house, in such quantities and of such dimensions as will hereafter be ordered by the superintendent, on his bid for the same, dated April 22, A. D. 1868, of the second part, witnesseth: That the party of the second part covenant and agree to and with the party of the first part, for himself, his heirs, executors, administrators and assigns, to furnish, deliver [ed(?)] at the site of said custom-house and post office, all the said granite, to the approval and acceptance of the superintendent of construction, in such quantities, at such times, and for such parts of the said building as the said superintendent shall require. And the said party of the first part, acting for and in behalf of the United States, doth covenant, promise, and agree to pay, or cause to be paid, unto the said part [y(?)] of the second part, his heirs, executors, administrators or assigns, 65 cents per cubic foot for all the granite delivered and accepted as aforesaid, good and lawful money of the United States; the payments to be made in the following manner, viz: Ninety per cent. (nine-tenths) of the value of the granite furnished and delivered as aforesaid will be paid from time to time as the same shall be furnished and delivered, the said value to be ascertained by the superintendent; and ten per cent. thereof (one-tenth) will be retained until the completion of the delivery and the approval and acceptance of the same by the superintendent, which amount shall be forfeited by said party of the second part in the event of the non-fulfillment of this contract to the entire satisfaction of said superintendent.

"It is further covenanted and agreed by and between the parties to this contract, that if, from any cause whatever, the said party of the second part should fail in required promptness in furnishing and delivering the said granite by or within the time or times specified above, it shall become the duty of the said superintendent, and he shall be, and hereby is, authorized and empowered, after eight days' due notice thereof, in writing, left at the shop, office, or usual place of abode of the said party of the second part, or with his agent, without effect, to purchase and supply any deficiency of the granite caused by the delinquency of the said party of the second part; and the actual cost thereof, together with 15 per cent. thereon, shall be deducted from any moneys due or owing to the said party of the second part on account of this contract; and if that account be not due him, then his bondsmen are to be held liable for any deficiency, to be recovered of them by suit in the name of the United States; or the said party of the first part may elect that if the party of the second part should fail to —— by or within the time or times specified above, that he shall forfeit the sum of —— per diem for each and every day thereafter until the final ——, which sum shall be deducted from any moneys which may be due ——; and if that amount be not due ——, then —— bondsmen are to be held liable for any deficiency, to be recovered of them by suit, in the name of the United States.

"It is further covenanted and agreed between the parties to this contract, that the party of the second part shall execute, with two or more good and sufficient sureties, a bond to the United States in the sum of —— conditioned for the faithful performance of this contract, and the agreements and covenants herein made by the said party of the second part.

"It is also covenanted and understood that no member of Congress, or other person whose name is not at this time disclosed, shall be admitted to any interest in this contract; and it is further covenanted and agreed that this contract shall not be assigned except by consent of the Secretary of the Treasury; and that any assignment thereof, except as aforesaid, will be a forfeiture of the same.

"It is also covenanted and agreed by and between the parties hereto, that if any of the granite shall be delivered on the site of the said United States custom-house and post office, by the party of the second part, and estimated, and a percentage paid thereon by the party of the first part, before they are put into the building being delivered to the superintendent, they shall become the property of the United States.

"It is further covenanted and agreed by and between the parties hereto, that this contract shall be valid and binding when approved by the Secretary of the Treasury, and not otherwise, and no departure from its conditions shall be made without his written consent.

"In witness whereof the parties hereto have hereunto subscribed their names and affixed their seals this 14th day of May, A. D. 1868.

"A. F. KNIGHT. [SEAL.]
"F. R. DELANO. [SEAL.]

"Witnesses to the signature of the superintendent:
"JAMES H. PLACE.
"CHARLES MARCOTTE.
"Witnesses to the signature of the contractor:
"JAMES H. PLACE.
"CHARLES MARCOTTE."

"BOND.

"Know all men by these presents, that we, ——— ———, of the city of St. Paul, county of Ramsey, and State of Minnesota, principal, and W. F. Davidson, of the city of St. Paul, county of Ramsey, and State of Minnesota, and H. L. Carver, of the city of St. Paul, county of Ramsey, and State of Minnesota, sureties, are held and firmly bound unto the United States of America in the sum of $10,000, to be paid in liquidated damages; for the payment of which, well and truly to be made to the United States, we bind ourselves, our heirs, executors, administrators, or assigns, jointly and severally, firmly by these presents.

"Sealed with our seals, and dated this 14th day of May, A. D. 1868.

"The condition of the above obligation is such that if the above-bound F. R. Delano shall well and truly perform all the covenants contained in a certain contract attached hereto, bearing date May 14, A. D. 1868, between A. F. Knight, superintendent of the construction of custom-house at St. Paul, Minnesota, for and in behalf of the United States, of the first part, and the said F. R. Delano of the second part, to furnish and deliver all the materials, and do and perform all the work required by said contract in constructing or completing the building authorized to be erected at St. Paul, Minnesota, then the above obligation to be void; otherwise to remain in full force and virtue.

"In testimony whereof the said F. R. Delano, W. F. Davidson, and H. L. Carver have hereunto subscribed their hands and affixed their seals the day first above written.

"F. R. DELANO. [STAMP.]
"WM. F. DAVIDSON. [STAMP.]
"H. L. CARVER. [STAMP.]

"Signed, sealed, and delivered in presence of—
"JAS. H. PLACE.
"CHARLES MARCOTTE."

[Revenue stamp, canceled.]

"STATE OF MINNESOTA, *County of Ramsey, City of St. Paul, ss:*

"Personally appeared before me, a notary public in and for said city of St. Paul, the said W. F. Davidson and H. L. Carver, who signed the above obligation, and who made solemn oath that they are each worth $5,000 over and above their legal liabilities.

"W. F. DAVIDSON.
"H. L. CARVER.

"Sworn to and subscribed, as above written, this 14th day of May, A. D. 1868.

"C. K. DAVIS,
"*Notary Public, residing at St. Paul, Minnesota.*"

"OFFICE OF THE UNITED STATES DISTRICT ATTORNEY,
"DISTRICT OF MINNESOTA,
"*St. Paul, Minnesota, May* 14, 1868.

"I hereby certify that W. F. Davidson and H. L. Carver, the sureties who have signed the foregoing bond, are known to me as residents of the city of St. Paul, State and county aforesaid, and citizens of the United States; and that I believe them to be amply sufficient security for the amount thereof, and that the bond is good.

"C. K. DAVIS,
"*United States District Attorney, District of Minnesota.*"

Q. What amount of granite have you received under that contract?—A. I cannot answer.

Q. Can you give an approximation?—A. Perhaps the amount of $9,000 or $10,000; perhaps more.

Q. And how much more would be required?—A. From $2,500 to $3,000 worth.

Q. The whole will amount to about $16,000, then?—A. I think a little less. My original estimate was between $15,000 and $16,000. That estimate was not exactly accurate, of course; we cannot make such estimates exact to a dollar. The figures of my estimate I find were $15,529 80.

Q. Before entering into this contract were any original advertisements published asking for proposals for the furnishing of granite?—A. Yes, sir.

Q. Inserted in what papers?—A. I think in the Press, of St. Paul, and also in the Pioneer.

Q. When were these advertisements published?—A. It must have been somewhere near the 1st of September, I think—perhaps not later than August.

Q. What year?—A. 1868. When I come to think, it must have been earlier—as early as as April, I am inclined to believe; the 1st of April.

Q. 1868?—A. Yes, sir.

Q. Are you sure that such advertisements were inserted?—A. Yes, sir.

Q. How many times were they inserted?—A. I think for ten days.

Q. In daily papers?—A. Yes, sir. Ten days, I believe, is the rule.

Q. Have you any copies of that advertisement with you?—A. No, sir; I have not.

Q. Can you state the contents of that advertisement in general terms?—A. I can give the substance; it ran about as follows: "Proposals will be received for the furnishing of granite for the St. Paul custom-house at the office of the superintendent on or before such a date," whatever the date was.

Q. Did you see the advertisements in the papers?—A. Yes, sir.

Q. Were they conspicuously inserted?—A. Yes, sir; as much as advertisements ordinarily are—I think a little more displayed than in ordinary advertisements.

Q. Do you recollect whether attention was called to them in the editorial columns of the papers?—A. I cannot say as to that.

Q. How many propositions were received under those advertisements?—A. I think two only.

Q. From whom?—A. One from Mr. Delano and one from Mr. Morris.

Q. Were those propositions in writing?—A. Yes, sir.

Q. What was the price at which Mr. Morris proposed to furnish the granite?—A. I think 55 cents. I will not be sure as to that; it might be more.

Q. What was the price at which Mr. Delano proposed to furnish it?—A. I do not recollect that.

Q. Was it the price mentioned in the contract?—A. I think not; I think it was more. I think his bid must have about 70, or in that vicinity.

Q. Are those proposals now in existence?—A. I think they are—in Mr. Mullett's office.

(Witness, on having his memory refreshed by Mr. Mussey, who was present as counsel for Mr. Mullett, upon reconsideration comes to the conclusion that advertisements were made at this .time, but that the advertisements of which he has been speaking referred to proposals made in December previous.)

Q. Were the proposals of Mr. Delano and Mr. Morris put in subsequently to the advertisements of which you spoke?—A. Yes, sir.

Q. And put in, as you understood, in answer to those advertisements?—A. Yes, sir.

Q. So that if you were mistaken as to the time when those proposals were submitted you wish to correct your statement as to the time when those advertisements were inserted?—A. Yes, sir. I think the first proposals were in some way informal. I believe they were received before any advertisements were put into the papers, but I am not sure.

Q. Then those proposals were not in answer to the advertisements?—A. I cannot say.

Q. What is their date?—A. I think some time in December. I think one of the proposals was dated the 24th of December; the other perhaps earlier.

Q. Who made those proposals?—A. One is from Mr. Morris and one from Mr. Delano.

Q. Mr. Knight, look at those papers and see if they are the propositions to which you refer?—A. Yes, sir, those are the same; I see that at the time these propositions were submitted we had not decided whether to use granite in the superstructure or not. I got these proposals merely to see what the probable cost would be.

Q. And are these two papers the bids to which you refer?—A. Yes, sir.

Q. And this letter, dated the 20th of December, commencing, "I have at last succeeded in getting two proposals for furnishing granite," is the letter which accompanied these bids to Washington?—A. Yes, sir.

Q. Were any other bids advertised for after the 20th of December?—A. I do not think there were.

Q. Then, when were those advertisements inserted?—A. I may have been mistaken as to those advertisements.

Q. In what respect?—A. As to their being inserted at all.

Q. What is your impression in regard to the matter?—A. My impression is now that I did not advertise at all. I made originally an estimate of the cost of the granite as well as I could; I estimated that it would cost about 68 cents a foot. Plans were sent to me, and a schedule of stone. I received a letter from Mr. Mullett directing me to get bids; we thought then we had not time to advertise and secure proposals, and I saw Mr. Delano and Mr. Morris. Mr. Morris had then abandoned his work. Mr. Mullett stated——

Q. When was that?—A. I do not know; it was after the date of this letter. Mr. Mullett stated that, if I could not get the contract cheaper, I should close one at a price not exceeding 65 cents per cubic foot; a large part of them were small stones, but some of them were very large.

Q. How large were the largest stones?—A. Some of them were to weigh perhaps six tons.

Q. What was their size?—A. Perhaps 10 feet long, and in the neighborhood of 6 feet wide and 15 or 16 inches thick.

Q. What were stones of that size to be used for?—A. Those I speak of were for cornices, some of them; others for window and door springers; others for columns.

Q. At the time you wrote this letter, December 20, you had not such instructions from Mr. Mullett as would enable you to give the dimensions of the stone you required?—A. No, sir; the plans at that time were not completed.

Q. When did you receive instructions which enabled you to give the dimensions of the stone you wanted, so that bids could be made therefrom?—A. Soon after the 20th.

Q. How came it that Mr. Morris made his offer for granite of a particular size; had you

had any conversation with him in which those sizes had been referred to?—A. No, sir; I think not.

Q. Why should he say, then, that he would furnish stone of such and such sizes at a given price?—A. I understand that he had been building a bridge pier partly of granite, and I suppose that those were the sizes he had been using in that bridge; and, not knowing what sizes were to be used in the custom-house, he made proposals for furnishing the same kind of stone which he had been using before.

Q. How many stones would you need in that custom-house larger than the largest size here proposed—about 10 feet long and 2 feet square?—A. Perhaps a hundred. There were a number of columns to weigh about six tons in the rough, some double springers, door and window arches, side columns for pilasters, &c.; these would weigh about three tons; they were to be only 8 feet long and about 2½ or 3 feet square in areal section. But you would get a much better idea by referring to the plans than I can give you by any description.

Q. Would it not be easier to quarry stones of that size than of a smaller size?—A. It is generally considered much more difficult.

Q. Do you not quarry the stones large and split them up?—A. Yes; but in breaking them they are apt to break up the wrong way.

Q. If a man had a contract for a large quantity of stone, would he make any difference in price for furnishing stone of the size you speak of?—A. I think he would.

Q. How much difference?—A. I cannot say.

Q. In your judgment, how much?—A. Twenty per cent. would probably cover it. I am not sufficiently familiar with quarrying to be able to give a valuable opinion on the subject.

Q. This estimate which you made of 68 cents a cubic foot as the probable cost of granite for this building, was it made before or after you received these bids?—A. I think some time before I received any bid.

Q. If you are not familiar with the prices of stone, how were you able to know that 68 cents would be a fair price?—A. From the best information I could get.

Q. From whom did you obtain that information?—A. From perhaps half a dozen parties.

Q. Where were they?—A. In St. Paul and elsewhere in Minnesota.

Q. Can you give the names of any of them?—A. I conversed on the subject with a man of the name of Brown; another was named Robinson. I know I conversed with others, but I do not recollect the names of the others. I know I took a good deal of pains to obtain as accurate information on these points as I could.

Q. Where did these men reside?—A. Brown lived in Stearns County, but has worked on the custom-house since then; Robinson was a quarryman in St. Anthony.

Q. Were they men who had had connection with stone work in the West?—A. No, sir; I understood that they had never touched any granite in the West. I also arrived at my conclusion as to price in part from taking the actual cost of granite in the East, comparing the price of labor in the East with the same in the West, and drew my own conclusions; taking also the difference in currency into consideration.

Q. What is the reason you did not advertise for bids for granite as well as for brick?—A. The season had so far advanced that I deemed it necessary to have the granite quarry opened as soon as possible.

Q. When was the idea first conceived of using granite in the construction of the building?—A. I knew nothing of it until some time in the winter of 1867.

Q. How early in the season can you commence opening a quarry in that country?—A. Some say the middle of March, some the 1st of April.

Q. Was there not ample time, from the time you first heard the suggestion until the time when a quarry could be opened, for you to advertise?—A. I find, on referring to my memoranda, that I received no instruction to use granite until the 9th of April. Mr. Mullett wrote to me asking me to make some estimate. I made some estimate myself, and I got these two estimates from Mr. Morris and Mr. Delano; whether I sent my estimate to Mr. Mullett before I received the others or not, I do not know.

Q. What material was intended to be used, if not granite?—A. We were to use limestone.

Q. Were there any steps taken to make a contract with anybody for limestone?—A. Not that I know of.

Q. Why not?—A. I cannot say, unless it was because it was not yet decided which to have. Granite is considered to be so much better that I supposed Mr. Mullett thought best to have it if it could be got at a fair figure.

Q. How were you to know what was a fair figure unless the matter was thrown open to public competition?—A. I could generally tell.

Q. Had you been in the granite work so as to know what was a fair price?—A. No, sir; and, so far as competition is concerned, I doubt whether any competition at anything like a fair figure could have been had. It was difficult to get hold of granite; it was difficult to get quarrymen; it was next to impossible to get cutters.

Q. What is a fair difference between the price of quarrying granite and the price of quarrying limestone?—A. I suppose it is worth about three times as much to quarry granite as limestone; at least a great deal more.

Q. You were not contemplating the construction of a building without using either limestone or granite, were you?—A. No, sir.

Q. Then why not issue proposals for them as well as brick?—A. The brick was not to come into use until a long time afterward.

Q. Which was to be used first, the brick or the limestone?—A. There was not much brick to be used in the basement.

Q. Was not limestone or granite to be used in the basement?—A. Yes, sir, in that portion that was above ground.

Q. Does it not take a great deal longer to prepare a kiln, and burn brick, and get it ready for use, than it does to open a quarry and get out limestone?—A. Yes, sir.

Q. Between September and spring was there not time enough to make a contract for limestone?—A. Yes, sir, plenty.

Q. Why not make one, then?—A. Because at that time I did not understand Mr. Mullett's instructions; I understood my instructions to be to do the work by days' work, therefore I opened that quarry. Finding that I could purchase limestone cheaper than I could get it out by days' work, I abandoned that first plan.

Q. How long did you work that quarry?—A. One season.

Q. How far below the surface did the basement of the custom-house building extend?—A. Eight feet.

Q. Did that take you through the limestone bed?—A. Not through.

Q. How much below that did it extend?—A. About 2½ feet.

Q. How did you know that if you did not go down any further?—A. Because men have gone down further in other places. I am perfectly familiar with the character of the rock there; there is an old well there which shows the nature of the stone completely.

Q Did you sell any of the limestone taken out during the excavation of that building?—A. No, sir.

Q What did you sell?—A. Nothing.

Q. Did you advertise nothing for sale in the St. Paul Press?—A. I think not.

Q. How then comes this bill for advertising in your account?—A. I think there must be some mistake.

Q. Did you never sell any stone?—A. No, sir.

Q. Nor offer any for sale?—A. No, sir.

By the CHAIRMAN:

Q. Was Mr. Delano one of the persons with whom you conversed when you endeavored to learn the cost of granite?—A. No, sir, unless as superintendent of the railway I inquired of him the cost of transportation.

Q. Is that your letter to Mr. Mullett communicating the cost of the granite?—A. Yes, sir.

Q. You stated a short time ago that you thought Mr. Delano's proposal for furnishing granite was at a higher price than 65 cents?—A. Yes, sir, I thought so.

Q. On examining the proposal you find that impression to be correct?—A. The proposal says from 35 to 100 cents; probably about 65 cents would be the average of the whole.

Q. The instructions under which you finally closed your contract with Mr. Delano are contained in this letter of April 9, 1868, from Mr. Mullett to you, are they not (handing witness the letter)?—A. That is the letter.

Q. Under which you entered into the contract with Mr. Delano?—A. Yes, sir.

Q. You have said here that Mr. Morris's offer would cover all the stone to be used in the building except a hundred—that a hundred stones would have been larger than he describes?—A. I did not intend to say exactly a hundred—it may be more, it may be less.

Q. Were any efforts made between the 20th of December and the 9th of April to procure offers from any persons other than those two gentlemen?—A. I made none.

Q. And these offers were not obtained on any public advertisement, I infer?—A. No, sir.

Q. Had you told both of these gentlemen that you would like to have them give you the price at which they would furnish granite?—A. I think I had.

Q. Why not to any other persons?—A. I knew that they were the only persons able to furnish and deliver as wanted.

Q. Did not Mr. Morris call upon you between the 20th of December, 1867, and the 9th of April, 1868, and endeavor to negotiate or desire an opportunity to put in a proposal for furnishing granite?—A. No, sir; on the contrary, he told me that he had abandoned his quarry and was going into other business.

Q. When did he give you that information?—A. About that time.

Q. About what time?—A. Between the 20th December and the next April.

Q. Can you not give any more definite idea as to when he gave you that information?—A. No, sir.

Q. Are you sure it was before the 9th of April?—A. Yes, sir.

Q. How came he to give you that information—did you call upon him or he upon you?—A. I called upon him.

Q. Do you know Dr. C. De Montreville, of St. Paul?—A. Yes, sir.

Q. Did he tell you that he was the president of a company owning any granite ledge?—

A. He informed me that he had a gold mine, he thought; that he was exploring after gold in a granite ledge; he showed me some specimens, and said that if he did not get gold he would have good granite.

Q. Where is his ledge?—A. At Watab.

Q. Was not the name of the company the Watab Company?—A. I never heard the name of the company, though I know Dr. De Montreville very well.

Q. Did he not furnish you with what purported to be a resolution adopted by the company offering and presenting as a free gift to the Government all the granite that it might need for the construction of the custom-house at St. Paul?—A. That is the first that I ever heard of any proposition of that kind.

Q. When was it that he called upon you and spoke to you in reference to the granite belonging to this company?—A. He never called on me at all; what he said was simply at some casual meeting.

Q. When and where?—A. I think on the steps of his office; I have apartments adjoining his office, and we often meet; I should suppose it to be there or on the street; it might have been at either place.

Q. When?—A. I think it must have been some time in the fall of 1867.

Q. Did you not give him the figures as to the amount of granite you would probably need, telling him when bids should be put in, if bids were put in?—A. I do not recollect anything of the sort; it is a thing I never heard of before.

Q. Do you know Charles Simons, of St. Paul?—A. Yes, sir.

Q. Did he ever call on you with regard to furnishing granite?—A. Not to my recollection.

Q. Did you ever inform him that proposals would be advertised for furnishing granite, and that he should have an opportunity to bid, if he desired?—A. I may have done so; if he asked me, I presume I did.

Q. Did he not have interviews with you, desiring to make proposals, as late as April 1868?—A. I do not know that he ever called upon me in respect to this subject. He has been in the office; whether, when there, he conversed on that subject I do not remember.

Q. Do you know whether Mr. Simons had any granite ledge, or any arrangements with the owners of a granite quarry?—A. I have no knowledge on that subject.

Q. Where is Watab; how near to the quarry from which you are now obtaining granite?—A. About twenty miles, I think.

Q. How far from St. Paul?—A. About eighty-five miles.

Q. Is it on the same line of railroad?—A. It is not on the line of the railroad.

Q. How near is it to the railroad?—A. About ten miles, I should say.

Q. Are you acquainted with Mr. Newson, of Watab?—A. I have seen him.

Q. Did he not call on you and desire an opportunity of making a bid to furnish granite?—A. I think he spoke to me in regard to the matter one day on the street.

Q. When?—A. I think some time before the letting.

Q. Can you fix the time any more definitely?—A. A month or two months before, I think.

Q. How often did he call on you?—A. I do not recollect his mentioning it more than once, though he may have done so.

Q. What did you say to him?—A. I presume I said to him substantially the same as I did to the others.

Q. What was that?—A. I may have said that advertisements would be made for bids.

Q. And all these gentlemen, Dr. De Montreville, Mr. Simons, Mr. Newson, and Mr. Morris, had interviews on the subject, and expressed their desire to make bids for granite before the 9th of April?—A. I think very likely they did. I do not think, however, that De Montreville made any offer to furnish granite; I have no recollection of it.

Q. After you received the letter of the 9th of April, did you call upon any of these gentlemen and offer them an opportunity to make a bid for furnishing this granite?—A. No, sir; only Delano and Morris.

Q. Did you see Morris after receiving that letter?—A. Yes, sir.

Q. But he had before that informed you that he was out of the business?—A. Yes, sir.

Q. And the only persons that you spoke to in regard to granite were Morris and Delano?—A. Yes, sir.

Q. After you had made the contract with Mr. Delano, did not Mr. Newson call upon you and ask you why you had not given him an opportunity to bid?—A. Not that I know of.

Q. Do you recollect telling him that the contract had been let privately and under instructions from Washington?—A. I have no recollection of it.

Q. Were your instructions such as precluded your advertising or making efforts to procure proposals lower than those of either of these two gentlemen?—A. No, sir.

Q. Then the question returns: why did you not endeavor to get proposals from one or the other of those gentlemen who had spoken to you on the subject, instead of concluding a contract without giving them any such opportunity?—A. Because, in my judgment, that was the only available quarry; and the stone could not be procured anywhere else at so low a figure in time for that year. I was under instructions to push the building vigorously.

Q. When was it necessary that you should have the granite for the building?—A. We wanted to get it in May, if possible; but we found that it took still longer than that.

Q. When was the first granite put in the building?—A. It was the latter part of June before any granite was cut, and it was still later before any of it was put into the building.

Q. How much later?—A. I think not till October.

By Mr. ELA:

Q. Was there a change made in the granite after commencing the work?—A. Yes, sir.

Q. You opened a new quarry?—A. Yes, sir; and then changed back to the original, which we are working now.

Q. How did you make your contract for cement?—A. We made no written contract.

Q. Did you invite proposals?—A. Yes, sir.

Q. Did you not in every case invite proposals where the articles would be furnished by persons living out of St. Paul?—A. Yes, sir.

Q. Did you in any case invite proposals where the articles could be furnished by St. Paul people?—A. I do not recollect about that particularly.

Q. Is there anything that you purchased in St. Paul for which you invited competition?—A. I do not recollect.

Q. Is there anything that you purchased outside of St. Paul for which you did not invite competition?—A. Yes, sir; there were stone-cutters' tools and a great many other things of that kind; we also advertised for proposals for furnishing the brick.

Q. Did you not on the 26th of October write to Mr. Mullett that the limestone ledge was all stripped, so that you could now get limestone at a low rate?—A. Yes, sir.

Q. Why did you not continue getting limestone at that low rate after the ledge was stripped?—A. Because after that I concluded that it would be best not to bring any more rubble rock, as we call it, on the ground. If I had continued quarrying myself the next season, (1869,) I would necessarily have accumulated a large amount of rock for which I would have had no use, and which would have had to be removed afterward. So I concluded to purchase exactly what we did want of the quality we wanted, finding I could get it at a less figure than it cost to quarry it.

Q. I see by your letter of December 2, 1868, that you paid, for stripping the ledge, so that you could get at the rock, $3,679 76?—A. Yes, sir.

Q. And that, taking that expense into consideration, (as I see it is taken into consideration,) the total cost per foot of stone is 21½ cents per foot?—A. Yes, sir.

Q. Now, after you had been to all this expense of stripping, over $3,600, what reasons induced you to contract elsewhere for stone at 35 cents per foot?—A. I suppose it was because I wanted more stone than came from the quarry.

Q. Did you not excavate more stone than you needed?—A. Not of the kind we needed.

Q. Did you not, on the 6th of April, advertise to sell a thousand feet of stone?—A. I recollect writing that there were surplus stone not needed in the building, and recommended their being sold.

Q. Did you not write that there were a thousand feet to be sold?—A. I do not remember the quantity; I know I have sold no stone.

Q. Whether you sold any or not, did you not write a letter showing that the rock you quarried cost you less than 21½ cents per foot, including $3,680 for stripping, and after the stripping was all done make a contract for stone at 35 cents a foot?—A. I contracted for that stone cheaper than any other contract.

Q. That is not the question; did you make a contract for stone cheaper than it was costing you to quarry it?—A. I did, according to my calculations.

Q. Did you not make a contract for stone at 35 cents per foot?—A. Yes, sir.

Q. Did you not make a correct report here when you said that the total expense, including $3,679 for stripping, was but 21½ cents per foot?—A. Let me look over it a moment, please.

[Witness reads the letter and hands it back.]

Q. Is not that your letter?—A. Yes, sir.

Q. How much does it say has been the total cost of the stone, including all expenses for stripping, quarrying, hauling, &c.?—A. Well, it seems to be 21½ cents per foot here. I do not quite understand that myself; there may be some error in the calculation. My idea was that it cost over 40 cents per foot.

[At this point Mr. Mussey, attorney for the Supervising Architect of the Treasury Department, made a remark to the witness, whereupon the latter added:]

Mr. Mussey reminds me of a fact which I think will explain this apparent discrepancy. This letter refers to all the stone found in the excavation. Now, as I have explained, a large amount of it was worthless for the purposes of our building; much of that stone is not worth over $3 a yard, and similar stone could be bought for that. The 21½ cents a foot is set down as the average price per foot of the aggregate, good and poor together—by far the larger portion of it being poor. The best of it would have cost 40 cents a foot; but the most of it was of a much inferior quality, and could have been bought for 10 cents a foot, or 8.

By Mr. HAMBLETON:

Q. I do not think I understand exactly the condition of the rock in that quarry.—A. I

will endeavor to illustrate it to you by means of a diagram. Our quarry was, say 30 feet square, or not far from that; and let this represent a vertical section. First, we find 18 or 20 inches of dirt; then we come to stone, not in layers, broken into every shape and mingled with dirt; this extends downward for about 6 feet. Then we come to this first-quality rock in layers, about 3 feet deep; then we come to 3 feet more of comparatively worthless rock, and below that is 4 feet more, or thereabouts, of pretty good rock; but quarrymen generally do not take it out because it costs more than the rock is worth to strip off the poor rock that lies above it.

Dirt, 18 inches.
Broken stone, not in layers, fit only for rubble-work, 6 feet.
First quality rock, 3 feet.
Comparatively worthless rock, 3 feet.
Good rock, 4 feet.

By Mr. ELA:

Q. This ledge is in the center of St. Paul?—A. Yes, sir.

Q. Within a stone's throw of the State House?—A. It runs under the State House.

Q. And the stone you used is the same as is used in the other buildings in St. Paul?—A. No, sir—better; they use very poor stone sometimes. You will see many buildings not yet six years old, the stone of which is disintegrating and dropping out.

Q. Are not the school-houses, and other of their finest buildings, constructed of this material?—A. All the work that is much exposed is taken out of this best strata. Some of the other stone looks well, but is not durable. The good and poor stone, all reckoned together, would have cost 21 cents. The best quality of stone would have cost 40 cents. It was for stone of that kind I paid 35 cents. If they had brought anything else it would have been rejected.

Q. How many different concerns are at work in that quarry?—A. I think, five; the firms at work there are constant y changing.

Q. The contract is to deliver the stone on the ground?—A. Yes, sir.

Q. Is the stone that has been delivered satisfactory?—A. Yes, sir; all that I have accepted. What I have rejected I have not paid for, of course, so that makes no difference.

Q. What are the superficial dimensions of your quarry?—A. I cannot say, exactly; I should judge about 30 by 34 feet.

By the CHAIRMAN:

Q. Did you make any examination yourself of the different quarries of granite, or ledges, in the neighborhood of St. Paul?—A. I went all over that country; probably, for a radius of half a mile from where they were working.

Q. How many different ledges would that include?—A. They are all connected, excepting one, which lies outside of that, and part of that deep under ground.

Q. All owned by the same persons?—A. Yes, sir.

Q. So all the quarries you examined were the quarries of the Minnesota Granite Company, except one?—A. Yes, sir; and I don't know but they owned that. I deemed the one which I contracted with to be the only available quarry. It is very expensive to haul granite ten or fifteen miles by wagons, transfer them to railroad cars, &c.

Q. This quarry that you did contract with—how near is that to the railroad?—A. The railroad runs right into it. The main track runs within a hundred yards of the quarry, and a spur track has been built right into the quarry.

Q. What is the cost of transporting the granite?—A. The railroad company charges a tariff of 15 cents per foot, delivered at the depot in St. Paul.

Q. What would be the cost per cubic foot of delivering granite from this Watab ledge eight or ten miles away from the railroad at the nearest point?—A. That is a question I could not very easily answer. It would be necessary to know the exact distance, to find out how much granite could be hauled by a given number of men and teams in a given time, how many men it would take to unload from the wagons and load upon the cars, &c.

Q. Do you know what the cost of quarrying is reckoned at by the Minnesota Granite Company?—A. I do not. I know they claim to have lost between $5,000 and $7,000 on our contract.

Q. On the amount of granite already delivered?—A. Yes, sir.

Q. Has any person, since the making of the contract, proposed to furnish granite at any less price than that named in the contract?—A. No, sir; no such proposition has been made.

Q. Or intimated a desire to be permitted to make proposals for furnishing it?—A. No, sir; Mr. Morris has only expressed himself as being thoroughly glad that he didn't get the contract.

Q. When did he express himself to that effect?—A. Some time during the winter—perhaps last fall.

Q. Since the making of this contract?—A. Yes, sir; since a large amount of the granite has been delivered.

By Mr. ELA:

Q. Does he own the same ledge he did when he made the proposition?—A. I think he *never* owned it.

Q. How are you having the granite for the custom-house dressed?—A. By contract with A. H. Wilder.

Q. In writing?—A. Yes, sir. (Witness identifies the contract.)

Q. What was the price per foot?—A. There are a good many different prices, as there are a good many ways of dressing stone.

Q. What would be the average price per foot?—A. It would require a good deal of calculation and figuring to come at it.

Q. Do you know Samuel B. Brown, of St. Paul?—A. Yes, sir.

Q. What is his business?—A. When I come to think, I believe he lives in Stearns County, somewhere near St. Cloud; he is a stone-cutter.

Q. Did he ever make any proposition to you to dress this granite for the Government?—A. No, sir.

Q. Nor offer to take a contract for getting out granite at 40 cents a foot?—A. No, sir.

Q. Nor any offer of any kind?—A. No, sir.

Q. Did you advertise for proposals for dressing granite?—A. No, sir.

Q. Or make any effort to procure proposals?—A. No, sir, not relating to *this* contract; originally we did advertise.

Q. When was that?—A. In April 1868—possibly March.

Q. Did you receive any proposals under that advertisement?—A. No, sir.

Q. What proposals did you receive?—A. None. Mr. Mullett received some here and awarded the contract; there were no granite-cutters in Minnesota, except, perhaps, this man Brown and two or three others; and Brown said he had been out of the business for sixteen years, and had no desire whatever to bid.

Q. Then you received no bids at St. Paul, and whatever was done was done here at Washington by Mr. Mullett?—Yes, sir.

Q. With whom was the contract made?—A. With the firm of John Stuart & Co.

Q. What did they do?—A. They went to St. Paul and commenced work. The contractors for the rough granite had not got so far along in the quarry as they expected on account of the stone being so hard, and were on the point of abandoning the contract, but I went to the quarry with them, and we looked it over, and we came to the conclusion that by moving to a different place we might find a ledge that would work more easily. The removal was made, finding a little rock that could be worked. They concluded, if enough of that could be found, they would remain and endeavor to carry out the contract. But that quarry had to be abandoned; the material became exhausted; they came to a kind of mixed granite, red and blue. After trying in two or three places, they went back to the first quarry opened, and took some more out of that. They afterward struck a very superior quarry of granite; though very hard, it was very nice. Afterward, however, they abandoned their contract.

Q. Why were they not held to it?—A. They could have been sued, I presume, and forced to pay a penalty, but they were broke.

Q. You do not know whether any efforts were made to compel them to execute the contract or pay damages?—A. No, sir; we were extremely anxious to get the granite cut, and did not want to lose those men.

Q. Did they refuse to go on, or did you assent in any way to their giving up the contract?—A. I do not think I did. They abandoned their contract, and so informed me. I had nothing to do but either to enforce the terms of the contract or assent to their abandoning it, which I afterward did.

Q. Then you did consent that they might give up the contract?—A. Yes, sir.

Q. What was then done?—A. I then prosecuted the work by days' work.

Q. Where was the dressing of the granite done?—A. At St. Paul, on the custom-house site.

Q. What was the expense of dressing it when the work was done by the day?—A. It turned out to be considerably more than under their contract.

Q. Do you remember how much per foot?—A. I do not.

Q. How long did you continue the work of dressing by the day?—A. Two or three months, I think.

Q. Then were any proposals made for bids for dressing?—A. No, sir.

Q. What did you do?—A. I received the proposition of Mr. Wilder to do work by contract, which proposition I forwarded to Mr. Mullett, and it was rejected. Wilder was very anxious to do the work, and made another proposition, and I do not know but a third. When he got down to a fair figure the contract was awarded to him.

Q. How did the prices in the Wilder contract compare with the prices under the original contract with Stuart & Co?—A. They were considerably higher.

Q. How much higher; what per cent.?—A. I could only guess; they are cutting on work such as Stuart & Co. did not cut on.

Q. Still that work was on their schedule?—A. Yes, sir.

Q. Well, to the best of your judgment, how do the prices compare?—A. I should say about 15 per cent. higher.

Q. That is the average of the different kinds of cutting?—A. I should judge so.

Q. Can you give the schedule prices as contained in the Wilder contract, and also in the Stuart contract?—A. Is the Stuart contract here? I could, with the aid of that. (After examining certain papers, witness continued.) The difference is the difference between $66,000 and $98,000; about $32,000 for the whole building.

Q. Have you figured the difference which cutting would amount to under the two contracts for the whole building?—A. No, sir, I have not; that is done in this office here.

By the CHAIRMAN:

Q. Have you no idea of what the difference in cutting would be under the Stuart contract and under the Wilder contract?—A. I should suppose about twenty-odd thousand dollars.

Q. That is, the dressing will cost that much more under the Wilder contract than under the Stuart contract?—A. That is my idea, upon a rough calculation; I believe I never figured up the total of the Wilder contracts. Stuart's contract is drawn for a specific sum; Wilder's is not. I have here a telegram which I sent to Mr. Mullett showing the expenses under the different contracts:

[Telegram.—Dated St. Paul, Minnesota, April 4, 1870. Received at Washington, D. C., April 4, 6.03 p. m.]

"To A. B. MULLETT,
"*Supervising Architect, Washington, D. C.:*

"Days' work dressing granite, including blacksmithing, labor, teaming, iron, steel, coal, &c., $19,273 69; sheds, $650 68.

"J. Stuart & Co.'s contract, $5,345 40; tools, &c., $1,119 50.

"A. H. Wilder's contract, $79,105 93; total cost, $105,494 60; amount done, $75,213 77; balance to be done, $30,280 83.

"A. T. KNIGHT,
"*Superintendent.*"

Q. Then the dressing of the granite, as you now estimate it, will cost $40,000 more than the original contract price of John Stuart & Co.?—A. Yes, sir But there is somewhere an estimate in this contract which, I think, is not embraced in the Stuart contract for inside stairs, which amounts to several thousand dollars.

Q. How much? several thousand dollars is very indefinite.—A. It is impossible for me to say.

Q. The original proposals of Stuart were for $86,794 51?—A. I never had the original proposals of Stuart & Co.

Q. Stuart & Co. were experienced stone-cutters, were they not?—A. Yes, sir.

Q. Then please explain how it is that the dressing of the granite for this building is likely to cost nearly $40,000 more than what these experienced gentlemen were willing to take the contract for in 1868?—A. Simply because those contractors broke and no others could be found to take it at that figure. It was afterward let by contract, to relieve me of some work, and to insure its being pushed through the winter. I want to add that the sample of granite sent here was not a fair specimen of the granite from that quarry; it was softer than the rest of it and these men based their proposal upon that sample.

By Mr. ELA:

Q. Did Stuart & Co. make any other complaint except that the eight-hour law embarrassed them?—A. That was the greatest complaint.

Q. Was there any other?—A. Yes, sir; they complained of the hardness of the granite.

Q. Were they not ready to go on, if the treasury would advance 25 per cent.?—A. I heard some talk about that.

Q. Did Wilder propose to you to make a private contract for the stone work lower than the contract that was made?—A. He spoke of wanting to bid for this contract before it was made?

Q. Did not Wilder submit to you a proposition for a private contract?—A. No, sir.

Q. Did you ever see a proposition of his to do this work, excepting the one where he made the bids out of which this contract grew?—A. No, sir.

Q. Did he, or did he not, make a proposition to do this work on the 4th of December, 1868?—A. Not that I know of, sir.

Q. Did he transmit such a proposition?—A. I cannot say; I think not.

Q. Will you say whether that proposition (handing witness a paper) is higher or lower than the contract made with Wilder; and, if so, how much?—A. I do not recollect ever seeing this, sir; I do not think I ever transmitted it; I may possibly have done so, but I have no recollection of it.

Q. Can you tell me why a contract was made with Wilder at prices higher than he had before proposed to do this same work for?—A. I do not know as they are higher in the aggregate.

[The examination here assumed an informal and conversational style, the chairman of the

committee leaving, and the other spending a few moments in comparing Wilder's proposition of December 1868 with the terms of the contract entered into with him in April 1869; after which the committee adjourned.]

WASHINGTON, *April* 13, 1870.

B. F. KNIGHT; examination continued.

By Mr. ELA:

Question. Can you tell by casual observation and comparison how large a proportion of the prices upon that schedule are higher than the prices upon this proposition, and how much the aggregate would be?—Answer. I do not think I can; there are so many items to be taken into consideration. Any guess that I could make would be so far from accurate that it would not be of much practical value. Besides, there are many items in there which were already completed when this contract was made. The first item I strike, the area coping, in this proposition was offered at $2 10 per lineal foot; the price in the bid is $2 25. For quoins in the proposition, the offer is $1 93; the price in the bid is $2 60. These articles are not in the same order, and it would take a long time to go through with it in this way.

Q. Do you know anything about this proposition?—A. No, sir; I never saw it or heard of it until it was presented here to-day?

Q. When the contract was finally made, what course was pursued? Was any competition invited?—A. An offer was made, which was finally accepted; it was not in the shape of a bid; but the party who had before presented a bid, which was rejected, finally made a much lower offer—an offer lower than we could get elsewhere, and we accepted the offer.

By the CHAIRMAN:

Q. Did you state how much cheaper the work could be done under Wilder's offer than you could do it by the day?—A. In my opinion, some five or six or seven thousand dollars cheaper. I made some figures on that, and have no doubt of it.

Q. In your judgment, how much has the expense of the building been increased by the delay to furnish rough stone?—A. I think there has been some delay.

Q. I see from this correspondence that heavy expenses have been alleged to have occurred from not getting granite promptly?—A. I recollect the fact that we at first could not get granite as fast as I thought it ought to be furnished. This was owing to the fact that they could not get stone-cutters.

Q. But has not your main difficulty been in getting granite for the cutters?—A. There has been some delay on that account. I might have got along faster with the work, and it might perhaps have been less expensive, but for that.

Q. How much?—A. Exactly how much I cannot say; not a great deal.

Q. How much in your judgment?—A. Two or three hundred dollars. At first they had but three cutters at work; one or two others came afterward. However, we were not quite ready for the granite. We did the best we could. The delays were such as might have occurred on any piece of work.

Q. Who superintended the granite cutting while it was being done by the day?—A. I did.

Q. Was there any delay or failure in pressing forward the work as rapidly and cheaply as possible while it was being done by the day?—A. Every effort was made—perhaps greater than at any other time. We were greatly in need of it to push the work.

Q. I understand you to say that Mr. Wilder submitted to you a proposition for doing this work, which was changed and reduced in amount before you finally closed a contract with him?—A. Yes, sir.

Q. Did he, at any time, offer you a lower price than the one at which you finally closed the bargain?—A. No, sir; every other time it was higher. The two former propositions which he made were each higher than the one which was finally accepted, by considerable. The second was not very much higher; it was higher in some respects, and in no respect lower.

Q. Was there any effort or intention on the part of any one to have the work made expensive while it was being done by the day in order to pave the way for a better contract?—A. Nothing of that sort was done that I know of; and if there had been it could not possibly have effected anything, for I myself was entirely responsible for it.

Q. Have you ever heard it suggested by any one at St. Paul that such a course had been pursued?—A. Yes, sir.

Q. When did you first hear such a suggestion?—A. Perhaps two weeks ago; possibly three.

Q. Did you hear anything of the kind at the time this contract was made, or before, or within months after the contract was made?—A. No, sir, I did not; I had no idea of it.

Q. Was there ever any gift, or reward, or consideration of any kind, offered to you or to any other person to your knowledge, in connection with any of the contracts which have been made for material or labor upon this building?—A. Never, sir.

Q. Nothing of the kind by any one?—A. I have never received anything.

Q. Has anybody ever offered you anything?—A. No, sir.

Q. In any way whatever?—A. No, sir.

Q. Is any one interested in any way in these contracts, so far as you know, other than the persons whose names appear on the contract?—A. Not so far as I know.

Q Has any one an interest, so far as you have ever been informed?—A. Only by hearsay.

Q. What is that hearsay?—A. I believe these parties represent the so-called Minnesota Granite Company; but I have no knowledge of it—I mean Wilder. I understand him to be one of the members of the Minnesota Granite Company.

Q. Who compose, so far as you know or have heard, the Minnesota Granite Company?—A. I believe there are about thirty of them; Wilder, Delano, Carver, Prince—I am not sure of the names of any of the others.

Q. Have you heard other persons named as being interested?—A. I believe I have; I met a gentleman from Cincinnati who informed me he was a stockholder; I forget his name; he is a man about thirty years old—perhaps thirty-two or thirty-three; he went up to the granite quarry with me one day.

Q. Are any more of them residents of Minnesota?—A. I believe a half dozen or dozen of them are residents of St. Paul. I have heard their names, but do not recollect them now. It was a matter that did not interest me, only so I got the granite, so I paid little attention to these other matters.

Q. Have you ever heard it intimated that any person who is, or who has been heretofore, a member of either house of Congress, was interested in the limestone or granite or any other contract in connection with the building? I ask because I observe intimations of that kind thrown out.—A. My belief is there is no truth in them.

Q. Has any person ever intimated to you a desire that you would contract with one person rather than another, or make a contract in one way rather than another with regard to this building?—A. No, sir.

Q. Are the plans for this building completed?—A. I believe they are, but they are not all in my possession yet. I think I have seen in Mr. Mullett's office full details, which I have not.

Q. What will be the additional expense of completing this building according to the plans which have been adopted?—A. About $220,000, or in that vicinity.

Q. Could not money be saved to the Government by having this building put up by contract, instead of having the work done by the day as it is being done now?—A. I do not know; it might be.

Q. Has any builder or any person ever intimated to you a desire or readiness to bid for the completion of this building or any part of the work?—A. Yes, sir. A painter wished to bid for the painting, but I informed him it was to be done by days' work.

Q. Is that the only offer?—A. I think so. We are not far enough advanced to have the painting done.

By Mr. ELA:

Q. What is the original estimate of the cost of this building?—A. I have never seen the estimate.

Q Do you know how much has been already expended upon it?—A. I think $159,000.

Q. How much granite will you require in all?—A. I cannot tell how many feet it will require; I think the whole cost will be less than $15,500.

Q. How long have these parties been in furnishing this?—A. They commenced immediately after the contract was let—in April, I think.

Q. Do you know any good reason why they should keep you waiting for granite?—A. There is always difficulty and delay in opening up a new quarry.

Q. But having opened the quarry, what was the difficulty in keeping you supplied?—A. The difficulty, I think, arose from these stonecutters; the granite was so hard that it was the universal opinion that it could not be cut. The top of the quarry had been seasoning for ages, and was so very dry and hard that in cutting it, as soon as an attempt was made to finish it down, out would jump pieces perhaps as large as a dime or a quarter, and an eighth of an inch deep, more or less. This would necessitate dressing it all over again, and that without the probability of coming out any better next time; so they thought they would try the experiment of getting granite in another place. There was considerable time lost in moving and experimenting, and after all they came back to the old place and tried again.

Q. As I understand you, the men who furnished the stone and who did the cutting were substantially the same parties?—A. O, no, sir.

Q. Is it not so now?—A. Yes, sir; it is so now.

Q. Mr. Wilder, the contractor for the granite, is also the man who furnishes the stone?—A. Yes, sir, at present; but then, Stuart & Co. were contractors for the cutting, and had no relation to these parties that I know of.

Q. Need there have been any difficulty in their furnishing you granite?—A. I think it was very difficult to do under the circumstances.

Q. What circumstances?—A. Owing to the dissatisfaction of the granite-cutters.

Q. But were not the granite-cutters the same men who furnished the stone?—A. Not then.

Q. In all the work done in 1869, were not the men who furnished the stone and those

who cut it substantially the same parties?—A. They furnished as fast as required, last year.

Q. But this letter says: "I note what you say in regard to the delay and the cost incurred through want of prompt delivery of the granite. I cannot refrain from expressing my astonishment that you should assign such a reason as an excuse for *excessive cost of work* done under your supervision, seeing that the conditions of the contract give you full power to take such action as you deem fit to *com[pel the furnishing of] a sufficient supply of material."—A. That was in the spring.

Q. No; the letter is dated August 2, 1869.—A. Wilder, at that time, was doing pretty well. What I have been speaking of more particularly is the delay at the very commencement.

Q. You have said that the Government lost perhaps $200 or $300 by the delay in furnishing stone; would it not have required a larger loss than that to have induced Mr. Mullett to speak in this manner of the "excessive cost?"—A. No doubt it would. I may add, Mr. Mullett told me to estimate the loss, and charge it against them, to come in on final settlement. I am sure I do not know of any measure I could have taken that would have produced the granite any faster.

Q Where do you get sand?—A. From the river.

Q. I see here a complaint at the cost of getting sand.—A. There is no cost except shoveling it up and hauling it.

Q. How far do you have to haul it?—A. About a mile.

Q. How much does it cost?—A. It did cost $1 58 a yard; a yard is about a load. There was a short time when the river could not be got at, owing to the high stage of water; then I paid for some sand; but as soon as the water subsided we took sand from the river again.

Q. How much did the sand cost that you bought?—A. Ten cents a load, I think.

Q. How do you haul it?—A. In the winter we haul it on the ice; but in the summer we have to haul it across the bridge, which makes the distance considerably greater.

Q, How many teams have you had hauling sand?—A. I do not recollect.

Q. How many trips a day do they make?—A. Six trips a day, I think.

Q. How much have you paid for these teams?—A. Four dollars a day, perhaps four and a half for some of them; this includes a man and team. Then we keep a set of shovelers there, to load the teams. A couple of shovelers will keep three or four teams running.

Q. Have any arrangements been made for plastering?—A. No, sir.

Q. What is the estimated cost of plastering?—A. Forty-four or forty-five cents a yard; this includes the finishing, and everything; we propose to have a hard finish, with plaster of Paris. Forty cents is the price there for the best ordinary work.

Q. What is the price for labor in St. Paul?—A. $1 75 to $2 per day; the railroads pay $2, but work their men eleven hours Building laborers are getting $1 75.

Q. For how many hours' work?—A. Ten, usually; but we have to pay the same price for eight. However, we have the pick of the men, on account of that two hours' less work.

Q. What is your judgment in regard to finishing this building; would it be better and cheaper for the Government to go on and have the work done by the day, or to have the different departments put under contract?—A. I believe work can be done as well under contract as by the day. If I should continue to be superintendent, I should much prefer to have the work done by contract; it would not be one-twentieth the labor for me; at least, nowhere near so much

Q You could secure its being properly done?—A. I think so; but I should insist upon being allowed the same discretion as in other matters, namely: the privilege of not letting the work to men who I knew beforehand could not or would not do it properly. We have many mechanics in the West, as I suppose there are everywhere, who cannot do first-class work; who, in fact, do not know the difference between first-class and second-class work.

Q. Has there been any such discretion exercised?—A. I always exercise it in my own private business.

Q. I mean, has there been any such discretion exercised in this case so far as bids are concerned?—A. I cannot say that there has.

Q. Has there been any competition in that respect?—A. No, except as I have said before; there have been men who have spoken about it, but in such a way as to indicate that they did not regard it as a matter of any consequence.

Q. Why not?—A. Because they were not in business and had no facilities whatever for supplying the stone.

Q. Are you acquainted with a man by the name of Carver, who is connected with the St. Paul Press?—A. I do not think he does any business in connection with the Press itself; I believe he was a stockholder in the paper. He knows nothing about the granite business any more than others. Mr. Delano does; he is a thorough business man.

Q. Is that limestone quarry owned entirely by Davidson?—A. I believe so.

Q. Why not advertise for bids, so that Mr. Newson might have had an opportunity to bid?—A. Because of the necessity of saving time. If you go back among the letters from he start, you will find that Mr. Mullett was continually urging me to prosecute that building, and, if possible, get it under roof the first season.

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* The letters and words in brackets not in the original letter.

Q. But Mr. Newson applied for an opportunity to bid, and how would it have delayed the construction of the building to have given him that opportunity?—A. I do not believe that Mr. Newson had any intention of making any *bona fide* bid.

Q. Yes, but Mr. Mullett wrote to him that he should have an opportunity to bid.—A. Well, if I had known that, he should have had.

Q. Mr. Newson complains that after going to you three times and requesting an opportunity to bid, he wrote to Mr. Mullett making the same request, and that Mr. Mullett wrote back to him that he should have an opportunity to bid; but that no opportunity was given him; that the first he knew the granite contract had been let, the first information he obtained being from a notice in the newspapers that the ledge was being opened.—A. I do not recollect his calling upon me in relation to the matter.

Q. He states that he went to see you three times.—A. He may think so.

Q. He goes further than that, and says he can prove it.

By Mr. GRISWOLD:

Q. You think this man was not prepared to take any contract?—A. I am quite certain of it.

Q. You had that idea at the time?—A. Yes, sir.

Q. How came you to that conclusion?—A. He informed me that his quarry was ten or twelve miles back from the railroad on which the granite would have to be brought; the quarry from which we are taking the granite lies directly on the railroad.

Q. How far from it?—A. The railroad passes right through it—over the lower part of it; the quarry is upon the side of the hill above it, so that the rock have only to be brought a short distance, and that down hill, in order to reach the railroad. Mr. Newson would have to transport his granite by teams for a dozen miles, which would add greatly to the expense; consequently he would have to charge that much more for his granite than we could get it for from this other place.

Q. That is the way you reasoned?—A. Yes, sir.

Q. And you barred him out, because you thought he would not be able to make a bid as low as Mr. Delano?—A. I could not conscientiously have recommended the adoption of his bid, if it had been lower than the one which was adopted. If he had agreed to furnish granite, there would have been no end to the delays.

Q. Have you any reason to believe that he would have delayed you more than the present contractor has?—A. I have every reason to believe so.

Q. Why?—A. Because, as the granite would have to be hauled nearly a dozen miles by teams, over roads almost impassable in wet weather; besides, the owner of the quarry from which we are obtaining granite is superintendent of the railroad, and might have refused altogether to take granite as freight.

Q. Would he be likely to do that?—A. The railroad have done that with wood, and I do not know why they might not do it with granite. But my main point was, we must have the granite so as to commence work immediately. I regard it as a very favorable contract; there is no place in the United States, that I know of, where the Government has been able to get so good a contract, even in old granite quarries which have been worked for years by men of skill who understand the business thoroughly.

Q. You say you advertised for brick; why could you not advertise for granite as well as for brick?—A. because we did not want the brick for some time.

Q. How soon did they begin to deliver granite?—A. Some time in June.

Q. Did you not advertise for 41,000 brick to be delivered in June?—A. Yes, sir.

Q. For what length of time did you advertise?—A. We advertised ten days.

Q. This advertisement was inserted, it appears, on the 17th day of May, and you required your bids to be in on the 22d?—A. Yes, sir.

Q. That is not ten days?—A. No, sir; that was an error of mine; I did not notice it until after it was printed; I corrected it in the next issue.

Q. But were not all the proposals in, within those five days?—A. I corrected it, I forget whether in print or with the parties themselves.

Q. Two of these bids are dated May 21, another May 22; how could you correct the error when these bids were already in? Here are seven bids offered inside of five days.—A. My instructions directed me to advertise for ten days, but by some oversight I made this mistake; I know I corrected it in some way.

Q. That is not the point; if you could get seven bids for brick in five days, could you not have got some bids for granite in that time?—A. No, sir, I think not; I had made one mistake, and did not want to make two.

Q Did you not want to use brick before you did granite?—A. No, sir; only a few.

Q. Certainly you had from April until the 17th of May to advertise; in getting granite, all you have to do is to blast it out of the quarry and split it up. In order to get brick you have to prepare the yard, mold the brick, dry them, and burn them.—A. There are several brick-makers at Minneapolis and other places within a short distance of St. Paul.

Q. But did not all these parties who had stone to sell live within a short distance of St. Paul?—A. I think just this, that no granite could have been obtained from any other quarry so cheap as this.

Q. But is that any reason why you should not have invited bids?—A. The point was this: I was extremely anxious about getting granite as soon as possible; I was not so anxious about brick.

Q. How much did the whole amount of brick you wanted amount to?—A. Nine or ten thousand dollars.

By the CHAIRMAN:

Q. So John Stuart kept right on at the work after he gave up the contract?—A. Yes, sir.

Q. Is he still there?—A. Yes, sir.

Q. At what price?—A. He has been having $5 a day part of the time, and a part of the time $5 50; I am not certain what they are giving him now.

Q. Whom do you mean by "they?"—A. The company; he is now at work for Wilder.

Q. I see you gave him $5 50 while you were carrying on the work by the day?—A. Yes, sir.

Q. Was not that a high price?—A. I do not think it was too much for a man of his ability and knowledge of the business. He is an extra man; it would be difficult to find a better.

Q. Do you know whether or not this Minnesota Granite Company is a corporation?—A. I do not know.

Q. Have you ever had any interest in the company, directly or indirectly?—A. No, sir; none whatever.

By Mr. GRISWOLD:

Q. You said that the advertisement for this brick was published only five days, by mistake?—A. Yes, sir.

Q. And that you corrected it?—A. Yes, sir.

Q. How did you correct it? I do not understand.—A. I thought I corrected it in print, but I may have been mistaken. It may have been another advertisement that I corrected a typographical error in. I inserted this and did not discover that my instructions called for ten days' notice, until after the advertisement was in type. My clerk called my attention to it, and I in some way endeavored to correct the advertisement accordingly. I thought however, that five days' notice was amply sufficient. Just how the advertisement was corrected I cannot say.

Q. You were speaking of the owners of this granite, the parties with whom you contracted; their quarry is on the railroad, and they control the quarry?—A. Yes, sir; Mr. Delano is also superintendent of the railroad running to the quarry.

Q. And this quarry of Newson, you say, is some ten miles from the railroad?—A. Some seven or ten miles from where the terminus of the railroad then was; I do not remember the exact distance.

By Mr. ELA:

Q. And was this road going toward the quarry?—A. Yes, sir; it is four miles nearer to it now than it was then. There is a possibility of the track being laid to Watab this year, but it is not at all probable.

Q. Does the fact of Mr. Newson's quarry being further inland add to the expense of getting stone therefrom?—A. Certainly, sir.

Q. But might he not have been willing to have furnished the granite at less profit to himself if you had given him an opportunity to bid?—A. Possibly; but he is a man of no capital and I do not think he could have furnished granite at all at the price we are now paying for it. I do not believe any one could.

Q. This is your theory, then, that the expense of getting the granite out and to the building would be more than the price you are paying?—A. Yes, sir; I believe the present contractor, with all his advantages, is losing money.

Q. What is granite worth in the ledge?—A. I cannot say.

Q. Do you know what it costs to quarry it?—A. Without referring to any detailed estimate, I should say from 40 to 50 cents. I should not value granite in the ledge at more than 3 or 4 cents. It is the quarrying and transportation that make by far the greater portion of the cost.

WASHINGTON, *April* 21, 1870.

Mr. A. T. KNIGHT reëxamined.

Witness appeared before the committee and stated that he had read the transcript of the evidence which he had previously given before the committee, and desired to make a few corrections and additions, as follows:

On page 7 of the evidence, at the point marked "A" upon the margin: In explanation of this answer I wish to say that I meant that my attention was called to the fact that the pile at the quarry was being stolen from; I therefore commenced to haul that pile to the custom-house, where we had a night watchman. I forget whether I said that we had two large piles at the custom-house, one of the best of the stone not fit for facing and selected pile,

the other the poorest, which I do not think will be needed in the custom-house; and I hauled this other rock down there where the watchman could guard it.

Page 7, "B:" I should say that a certain amount of top surface is allowed as grout; I forget the exact amount. The remainder of the quarry that was worked by me was paid for at the rate of 3 cents per cubic foot for the a nount I took out.

Page 11, "C:" I change my answer to "Yes, sir. I consulted several of the stone quarrymen and stone-cutters; and their first prices, where they did not offer written bids, ranged from 45 to 75 cents per foot."

By Mr. ELA:

Q. Whom did you consult?—A. I consulted several—the firm of Heisler & Co. for one; I think Slick & Erd for another. I may have called on other firms.

Q. Why did you not invite bids by advertising?—A. I did advertise at the time I furnished those thousand feet or so.

Q. Did nobody offer to furnish limestone?—A. Yes, sir; Mr. Davidson.

Q. Who else beside Davidson?—A. Nobody, that I remember of.

Q. Have you a copy of that advertisement anywhere?—A. Yes, sir, I have it here. (The advertisement was submitted to the committee, showing that bids for limestone were advertised for in the St. Paul Press; in the advertisement the right was reserved to reject any or all bids. Witness stated that the advertisement was also printed in the St. Paul Pioneer.)

By Mr. ELA:

Q. Did you forward any bids to Washington, as directed in this letter of April 12?—I do not remember whether I did or not.

Q. You say that but one bid was received?—A. Not that I recollect of.

Q. About this stone that you hauled down to the custom-house—why did you not sell it instead of hauling it?—A. At that time I had no authority to sell; my first instructions were that the work should be done by days' work, and the surplus material, on the completion of the building, together with the tools, derricks, chains, &c., be sold at auction.

Q. You say that before you got down to the stone that was fit for ashlar there were six feet of less valuable stone; what was that stone worth at the quarry?—A. About 85 cents for 16½ cubic feet; that is a little less than $2 per yard. It was only fit for rubble, so called. There is a part of it that is not so valuable as that—worth, perhaps, not more than $1 per yard.

Q. When was this stone stolen?—A. I do not know; I presume in the night.

Q. Did you ever make any effort to find where it had been carried?—A. I do not know that I did.

Q. Why not?—A. I did not consider them of any very great value. I told my clerk that I wished he would keep a look-out and see whether any more of them were missing.

By Mr. GRISWOLD:

Q. Is it possible that anybody would steal stone?—A. Oh, yes, sir; it is Government stone, and they consequently considered it their own.

By Mr ELA:

Q. How much of this class of stone did you haul away from the quarry?—A. I do not remember how much; I should suppose 20 or 30 yards.

Q. And you paid more for hauling that stone than it would sell for on the grounds?—A. I think not.

Q. What did it cost you a foot to haul it?—A. It will be difficult to tell that, because it was hauled by the day; I should suppose 40 or 50 cents per yard.

Q. How much was it worth?—A. I suppose it was worth $1 a yard.

Q. Would it not be worth more than that on the lot?—A. I think not.

Q. Would it not be worth more on the lot than at the quarry?—A. I think not.

Q. Then why should you haul it from the one place to the other?—A. The only difference was it would be more secure.

Q. Now, have you not reported that it cost you 6 cents per foot to haul that stone from the quarry to the custom-house?—A. I may have done so; I do not remember. I suppose a man could haul about 10 yards a day; for this we would have to pay $5.

Q. That would be about 50 cents a yard?—A. No, sir; I do not think the hauling could possibly cost 50 cents a yard.

Q. Which would be correct, your estimates now or the report which you returned to the Department?—A. I presume that my report to the Department was correct.

Q. That report said 6 cents a foot, did it not?—A. I do not remember.

Q. Have you any idea how much of this refuse stone you have on hand now?—A. No, sir; I cannot carry all these things in my head. By referring to the report I can tell; it is a large amount.

(The examination upon this point being concluded, the witness proceeded to refer to further explanations and additions which he wished to make to his testimony which he had previously given.)

Page 13, "D:" By reference to the papers I find that I pay 35 cents per foot for the stone here referred to.

Page 15, "E:" Reference to the papers shows that it was advertised on the 22d of April, 1869.

Page 19, "F:" By referring to the papers I find that no advertisement for proposals for furnishing granite was published in any paper, the order that I received from the Department on the 9th of April being considered by me to require such expedition that the delay for the transmittal of proposals for approval was to be dispensed with and the matter left entirely to my decision, the limitations of the same being based on the bids already transmitted in the December preceding, which were named for my guidance in the contract.

Page 21, "G:" The testimony from "F" to "G" is altogether wrong. The advertisement for granite cutting was confused in my mind with the proposals for rough granite.

Page 22, "H:" The above remarks and the remarks opposite "H," on page 22, refer to the same thing.

Page 44, "I:" I will state here that I did not consider Mr. de Montreville nor Mr. Newson nor Mr. Simons as at all likely to undertake any contract for granite. Nor is the reputation of either of them as regards ability, experience, or means such as would warrant me in advising the letting of a contract to them. I therefore considered that the competition was narrowed down to such parties as possessed the means and facilities to provide the material. Messrs. Delano and Morris were the only parties offering. In April Mr. Morris refused to stand by his bid of the preceding December, and I succeeded in making what I considered a very favorable arrangement with Mr. Delano, as must be acknowledged by comparison of prices with those of any granite company in the East.

Page 45, "K:" This answer I would have, "No, sir; but I so understood them at the time."

Page 56, "L:" This answer should be, "I do not."

Page 75, "M:" Since reading the correspondence I would modify this answer, as it seems that a copy of Mr. Wilder's bid of December 4 was sent to me by Mr. Mullett and was received at my office during my absence East, and the fact that a bid had been made at all had thus entirely escaped my memory.

By Mr. GRISWOLD:

Q. What would be the whole amount of the cutting of this stone under Wilder's contract?—A. Ninety-two or ninety-three thousand dollars.

Q. Don't you think you could have got this limestone cut for less than 35 cents a cubic foot by asking for bids?—A. I do not think I could I did ask for bids, but the most of them wanted to furnish it right through, good and bad rock all together. For good rock such as we needed some of them wanted to charge as high as 75 cents. What I wanted was number one quality, such as occupied about 3½ feet in the ledge.

Q. Don't you think you could have got that stone drawn for less than $1 15 per yard?—A. It only cost about $1, I believe.

Q. Could you not have got it done for less than that?—A. Doubtful, I think.

Q. What has been your whole expense for sand?—A. I cannot tell exactly.

Q. Well approximately?—A. I should say between $3,000 and $4,000.

Q. That is for plastering and all?—A. Yes, sir.

Q. Does it go through any process before you use it?—A. No, sir; it is ready for use, cleaned and washed where we find it. Bank sand has to be washed; but we get our sand from a sand-bar in the river, or on the bank of the river where it is washed up; we haul it from there mostly in the winter on the ice; the road upon the ice is level, of course; from the river to the site of the custom-house is a little up hill; we had to haul some of it from a sand bank because the river was high; that cost us more than that which we obtained from the river. I think I have stated the distance that we have to draw the sand too small; I think it is nearer a mile and a half than a mile.

Q. Have you no idea that sand could be procured at a cheaper rate?—A. No, sir.

Q. In this account you include the opening of the quarry?—A. Yes, sir.

Q. Does it include the cost of the quarry?—A. No, sir.

Q. Does it include the cost of building this side track of railroad into the quarry?—A. No, sir; the railroad company built that at their own expense.

By Mr. ELA:

Q. Where did you haul this stripping when you stripped the ledge?—A. It was hauled on to the street.

Q. And when you cut down low enough so that some of the rock was fit for use?—A. The best of it was hauled to the custom-house site.

Q. Now in this letter of December 2 you report the cost of hauling that rock at $6 92 per foot?—A. I suppose that was the dimension stone probably.

Q. You have got here the cost of stripping at $1,185; that stripping you hauled into the road, did you?—A. The most of it.

Q. And this $6 92 was the cost per foot of hauling the good quality of rock?—A. Yes, sir.

Q. Would it not cost as much to haul the refuse rock as the other?—A. I think not.

Q. What was the difference between hauling that portion of the rock not used for facing and that which you used for facing?—A. I don't remember; I did not pay any attention to the matter whatever.

Q. In your judgment what would be the difference?—A. That would depend considerably upon the size of the stone.

Q. How large were your facing blocks?—A. They would vary from 2 to 4 or 5 feet square.

Q. And how thick?—A. From 10 to 15 or 16 inches.

Q. How were they loaded?—A. Partly by derrick and partly by hand; the derrick was mainly used for pulling rock out of the quarry: if the team was there when the rock was lifted it would be swung on to the wagon with the derrick; if not, it was more likely to be lifted on by hand or rolled on.

Q. What element of cost makes this class of stone more expensive to haul than the other?—A. It was more expensive to haul dimension stone than rubble stone, on account of its being more difficult to load. The first year we quarried, in the fall, we stacked up heavy dimension stone in the quarry, and did not haul it until next spring. Some of it was piled at a considerable distance from where the derrick was. In loading that, of course, it had to be loaded by hand. I cannot say from recollection whether a load of this cost more or less than the other.

Q. Have you ever sold any of this stone?—A. No, sir.

Q. This is the stone that you piled upon the lot you leased?—A. On the two lots.

Q. What rent do you pay for those two lots?—A. Fifty dollars a year for one, and $150 a year for the other.

Q. What is the size of the lots?—A. One of them is 150 by 50 feet, and the other 150 by 100, I should guess.

Q. What was your object in paying 6 or 7 cents a foot for hauling stone that when you got them where you wanted them were not worth more than 4 cents per foot – A. The object was to secure it from being stolen, and protect the interests of the Government.

Q. Do you deem it protecting the interests of the Government to rent a lot upon which to deposit stone, and then to pay 7 or 8 cents per foot for hauling upon it stone not worth over 4 cents a foot?—A. The lots were already rented before for the storage of some of the excavation stone; it did not increase the rent of the lot to pile more stone upon it. It was only a question of hauling.

Q. Well, did you consider that you were advancing the interests of the Government in paying 7 cents for hauling stone that when it was hauled was not worth more than 4 cents?—A. I could not know how much was going to be the cost of hauling.

Q. Did you make no estimate regarding the matter beforehand?—A. I then supposed I would be advancing the interests of the Government to do it.

Q. Do you transact your own business without entering into a calculation of the cost?—A. Not generally.

Q. How did it happen, then, that you hauled this stone at such cost?—A. I cannot say how it happened, if it did happen. It is possible there may be some error, somewhere.

Q. You submitted a statement of the cost of supplying granite to the stone-cutters; how were you enabled to make that estimate?—A. By ascertaining as near as I could the cost of tools and drilling, loading and unloading, hauling, &c.

Q. Did you inquire the cost of quarrying?—A. I do not think I did.

Q. Why not?—A. I do not think there was anybody about there that knew anything about the cost.

Q. In your calculations did you make any estimate of the value of the stone in the quarry?—A. I think I did. In my estimate I think I included everything.

By Mr. GRISWOLD:

Q. By whom are you employed?—A. By the Government.

Q. At what salary?—A. Six dollars a day; that is all there is of it.

TREASURY DEPARTMENT,
Office of Supervising Architect, December 19, 1867.

SIR: I have the honor to submit for your approval plans of the custom-house, court-house, and post office building at St. Paul, Minnesota, with estimates of the cost prepared by the Assistant Supervising Architect and official computor of this office, B. Oertly, esq., and to say that I believe the prices named therein are fair.

It will, however, be seen that no allowance has been made for contingencies, and, as the price of some of the work is estimated, I am of the opinion that it would be injudicious to estimate the cost of the building completed at less than $200,000, which is as low as buildings of the same class in other localities will cost, and which sum I consider ample.

I have selected the Norman style of architecture on account of its fitness for rubble

masonry, of which it is proposed to construct the wall of the St. Paul limestone, being admirably adapted for that character of work. It is proposed to make the dressings of the granite recently discovered in the vicinity of St. Paul.

I have endeavored to design a building that will be found ample for the purposes for which it is intended, and one that will be an ornament to the city and a credit to the Government; at the same time I have endeavored to avoid the unnecessary expenditure of a single dollar.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

Hon. HUGH MCCULLOCH,
Secretary of the Treasury.

Estimate of the cost of the new United States custom-house, court-house, and post office at St. Paul, Minnesota, according to the plans prepared by A. B. Mullett, Supervising Architect.

Rubble masonry	$26,732
Granite-work	37,474
Fire-proof floors	27,810
Brick-work	13,588
Iron-work, including roof-frame	17,031
Slatings and copper roofing	7,611
Marble tilings and marble mantels	8,613
Carpentry and painting, exclusive of floors	12,303
Plastering	9,593
Plumbing and gas fixtures	3,100
Heating apparatus	9,480
Total	173,335

TREASURY DEPARTMENT, *February* 25, 1868.

SIR: Yours of the 18th instant is received. In reply, I have to say that the new custom-house at St. Paul will be constructed of the Minnesota limestone, with dressings of granite, for which a large quantity of stone will be required.

Advertisements requesting proposals for furnishing the same will be duly published by the superintendent, and I shall be much pleased to have you submit a bid.

If you are the lowest bidder, and the security and sample of stone are satisfactory, the contract will be awarded to you.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

T. M. NEWSON, Esq.,
St. Paul, Minnesota.

TREASURY DEPARTMENT, *April* 9, 1868.

SIR: I have been called on by H. L. Carver, esq., in regard to the granite for the custom house building under your charge, and have also considered the proposals submitted by you on the 20th December last. I have decided to instruct you to contract for all the granite required, at a cost not to exceed sixty-five (65) cents per cubic foot, the stone to be delivered as rapidly as you may need, and of the dimensions required by the plans, and according to the schedule to be furnished by you.

You will ascertain on what terms you can procure the stone, and award the contract to the lowest bidder, provided he can deliver the stone as rapidly as it will be needed, and of the best quality. You will, however, in awarding the contract, pay more regard to the quality of the stone, and the facilities on the part of the contractor to furnish it without delay, than to any slight difference in the cost, though I desire that you should get the material at the lowest price.

Should you be able to make satisfactory arrangements please order the stone at once, commencing at the base of the building, and prepare contracts and forward for approval in accordance with your instructions.

Very respectfully,

A. B. MULLETT.
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

ST. PAUL, MINNESOTA, *April* 13, 1868.

SIR: In accordance with orders given me by the Supervising Architect, I beg to instruct you to commence work on the building under your charge at once.

You will locate the building on the lot so that the second step shall come on the line of Fifth and Wabashaw streets. The grade will be as shown on drawing No. 14, viz., 3 feet 6 inches to the entrance-floor line above the lowest corner of the lot, and the foundation will be leveled to the depth shown on the same drawing.

The basement walls will be of the dimensions shown on the plans, and will be of rubble masonry. The stones will be laid on their natural beds; there will be at least one quarter of the stones going entirely the walls to the length of, say 3 feet, and not less than 5 inches thick.

The interstices will be well filled with mortar and spawls, and thoroughly grouted. All walls will be pointed in a neat and workmanlike manner. The entire work will be laid up in cement mortar composed of proportions approved after due tests and trials.

You will at once write to Louisville, Kentucky, and ascertain at what rate you can have cement delivered at St. Paul, stating explicitly the price per barrel on the levee here, and specifically agreeing that each barrel shall weigh not less than 300 pounds. On receiving the proposals you will then order by telegraph from the lowest bidder enough cement to construct the basement story.

You will at once enter into negotiations with the granite dealers and report their proposals to the Supervising Architect. The work will be expected to be pushed on with the utmost energy and rapidity, and the utmost economy will be observed in all parts of it.

Very respectfully,

J. C. RANKIN,
Assistant Supervising Architect, Treasury Department.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

[Telegram.]

TREASURY DEPARTMENT, *April* 24, 1868.

A. F. KNIGHT,
Superintendent United States Custom-house, St. Paul, Minnesota:

Have you made arrangements for granite? Time of utmost importance.

A. B. MULLETT,
Supervising Architect.

TREASURY DEPARTMENT, *April* 24, 1868.

SIR: For the last week I have been daily and anxiously expecting to hear from you regarding the granite for dressings of the building under your charge. If unnecessary delay is made now in dressing the stock the entire work will be retarded I have therefore to request that you will at once communicate the result of your action, and also inform me what course you would advise in regard to the granite cutting? Can you get granite-cutters? What do you think would be a fair price for first-rate stone-cutters in your town?

You will insist on the contractors for granite commencing to deliver it *at once*, as I cannot be delayed on that account; and if they do not furnish it rapidly enough I shall abandon the use of that material, and if necessary change the design. I want the building got ready for the roof this season. No provision will at present be made for a cistern in the building.

You will at once make out schedules of the amount of brick, sand, lime, and lumber required to complete the building, and forward the same, together with suggestions regarding your proposed plan of procedure in the conduct of the work. You will use lime mortar for all work above the basement. I cannot too strongly impress upon you the necessity of exerting every energy to press the work forward, and especially to prevent delays in the supply of materials.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *May* 2, 1868.

SIR: Yours of the 27th ultimo is received. In reply I have to say that I am much please to learn you have made arrangements for a supply of granite.

As regards the stonecutters, we are planning to send you six or eight first-class hands, and will get them started at the earliest possible moment. Meantime you will use every effort to get your preliminary arrangements perfected that all possible delay may be avoided.

Very respectfully,

B. OERTLY,
Acting Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *May* 8, 1868.

SIR: Yours of the 1st instant, transmitting for approval your contract with Mr. F. R. Delano for granite, is received. Your contract, although substantially correct, does not in some respects conform to the form of contract in use by this office. I have therefore had prepared and herewith transmit a proposed contract in triplicate, with Mr. Delano, which you will please have executed, taking care that the blanks in the bond and body of the contract as to date of bids, &c., be properly filled up, and return the same to this office for approval as soon as practicable.

I shall have a revised form of contract from the printer in a few days, when I will send a few copies for the use of your office. Meantime let Mr. Delano go on delivering stone.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *May* 12, 1868.

SIR: I telegraphed you on the 7th instant that a lot of granite-cutters would leave on that day, but at the last minute the best granite-cutters would not go, and I could have sent you only a lot of inferior workmen and marble cutters, who could not do a good day's work in granite. I have therefore decided to advertise for the labor of cutting, the Department furnishing the stock and the sheds for the workmen.

I wish you to have the inclosed advertisement inserted for one week in the St. Paul Press and Pioneer, and forward the proposals received without delay. I will also advertise for proposals here, and hope between us we may get some bid that is favorable from a reliable person.

I send you to-day all the detail drawings for the granite-work, including a full-size section of the window arches, and have to say that the full-size drawings will be followed without regard to the scale drawings, some modification having been found necessary in the preparation of the full-size section. I also send you by express a standard sample block of granite, showing the style and quality of the granite-work required, which will, I trust, reach you safely.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *May* 13, 1868.

SIR: Inclosed herewith please find copy of advertisement for the labor of cutting the granite for the United States custom-house at St. Paul, Minnesota, and I would very much like to have a bid from you for the work. The granite will be furnished at our own sheds at the site of the building. The rates at which we have purchased it are much lower, I believe, than you would care to furnish it at, even if you could have obtained it at all.

As regards the requirement to have the whole work completed by the 1st of May, 1869, I have to say that I want it all at the very earliest moment, and will accept it as fast as it can be set, or faster, if you desire.

Please send me the bid at once, as an early decision is very necessary. The plans can be seen here or at St. Paul.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

N. OSBORN, Esq., *Joliet, Illinois.*

TREASURY DEPARTMENT, *May* 28, 1868.

SIR: I have to inform you that contract for cutting the stone work of the building under your charge has been awarded to John Stewart & Co., of this city, they being the lowest bidders under the advertisement, and their bid being considered satisfactory. The Government is to furnish the granite, sheds, tools, blacksmith shop, &c., the contract being for the labor of cutting only, including the sharpening of the tools. The necessary patterns will be made by you.

The contracts will be executed here, and the contractors will start at once for St. Paul, with their force of cutters. You will therefore please make every arrangement for them to commence work immediately upon their arrival. They are all working men with small capital, and I trust, therefore, you will use every effort to prevent any delay in their beginning work, as loss of time will be serious to them.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *June* 2, 1868.

SIR: This will be handed you by Mr. John Stewart, contractor for the granite cutting of the building under your charge, who is accompanied by his two partners, Messrs. J. Young and Matthias Breen. I desire you to give them every facility in your power in performing their contract, and to take special care that the granite is delivered promptly at the sheds, that no delay may occur to them. They are all working men. Mr. Stewart has been employed for years as foreman by the contractors for granite work of the Treasury extension, and his partners have worked for them for some time. I know them all to be first-class workmen and industrious men. You will provide them with tools, sheds, blacksmith shop, and will make such patterns as they may require.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent United States Court-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *June* 5, 1868.

SIR: Yours of the 29th ultimo, inclosing proposals for brick, is received. In reply I have to say that nothing but the best quality of hard-burned brick from the heart of the kiln will answer. No brick that are tender or not thoroughly burned will suit.

If the quality of brick offered by Lucius Howe is satisfactory, or if he will agree to furnish a satisfactory quality, and give good security for the fulfillment of the contract, you will award it to him, and prepare contracts and forward them for the approval of the Secretary without delay.

If the quality of brick that Mr. Howe will furnish is not satisfactory, or if he cannot furnish security in the sum of, say $5,000, to one of the next lowest bidders who offers the best brick, provided the quality offered is at least equal to the requirements of this letter and the advertisement.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *June* 25, 1868.

SIR: I herewith return your contract with E. S. Litchfield in triplicate, forwarded by you under date of 16th instant, and have to request that you will have a 25-cent internal revenue stamp affixed to each bond, and return the contract to this office for approval. You will notify Mr. Lucius Howe that it will be useless for him to submit proposals hereafter to furnish materials for use of this Department, for the reason that having violated his engagement to furnish the bricks, no further proposal of his will, under any circumstances, be considered.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *June* 27, 1868.

SIR: Yours of the 22d instant is received. I fully appreciate the difficulties under which you have been laboring in obtaining good masons, and trust your next monthly report will show a material reduction in the cost of masonry.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent United States Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *August* 18, 1868.

GENTLEMEN: Yours of the 20th ultimo, asking an increase from your contract price for cutting stone for St. Paul custom-house, owing to the passage by Congress of the eight-hour law, came duly to hand. In reply I beg to inclose copy of decision of Comptroller in the matter, and to say that you will see by it that none but laborers, workmen, and mechanics, *directly employed* by Government, come under the provisions of the act, and that no officer of the Government is authorized to enlarge the contract price agreed upon when the contract was made.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

Messrs. JOHN STEWART & CO.,
Contractors, St. Paul, Minnesota.

TREASURY DEPARTMENT, *September* 14, 1868.

SIR: Yours of the 5th instant is received. In reply I have to say that I do not understand the difficulties you labor under. The contract of John Stewart & Co. was to cut the whole of the granite work on the building for the sum of $66,955 58, a schedule of prices being agreed on for the convenience of the superintendent in making payment, and also for the purpose of effecting settlement in case of the failure of appropriations and the consequent closing of the work, but the whole of the granite work shown on plans is to be done for the above sum, as proposed in their bid, which is referred to and is a part of the contract, though the price was not embodied in it, the law prohibiting specific contracts for a greater amount than the appropriation.

You will therefore make out their vouchers according to the schedule attached to the contract, paying for piece-work by the piece, measuring superficial work superficially, and lineal work lineally. I inclose a copy of their proposal, and have to say that you will allow them the full amount estimated for by them for each item when completed, even though the measurement should prove too great. In other words, they are entitled to the sum of $66,955 58 for cutting all the granite work required by the plans.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent United States Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *October* 19, 1868.

SIR: Your report of operations for the month of September is received. I have again to call your attention to the very great cost of quarrying stone. According to it 1,205 yards has been quarried, at an average cost of over $7 50 per yard. The total amount paid for same is $9,311 50.

In view, therefore, of the enormous amount of money expended on this item, and there not being any satisfactory diminution in the cost of quarrying, I have to request that you will give me such information as will enable me to determine whether it would be advisable to purchase the stone in market or not.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent United States Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *December* 8, 1868.

SIR: Yours of the 2d instant is received, and I have much pleasure in informing you that for the first time a satisfactory explanation of your quarrying operations has been made.

The cost of the stock, (21½ cents,) as exhibited by your letter, is entirely satisfactory. Had your reports been made explicit as to the various items of expenditure and their application on the work, I should have had no difficulty in arriving at the exact state of the case as now explained. I have much pleasure in commending your management of that particular branch of the work.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent United States Custom-house, St. Paul, Minnesota.

ST. PAUL, MINNESOTA, *December* 14, 1868.

FRIEND MULLETT: The granite company, through Mr. Wilder, its president, have made an offer to cut the balance of the granite for the post office and custom-house; they have made an offer which I am well satisfied is as low as it can be done, when you take into consideration the hardness of the rock and the peculiar workings of the eight-hour law. You are well aware that our company are, and have been, anxious to get the granite in good shape into this fine building that you are erecting at St. Paul. *Not* that we expect to make, (but, on the contrary, will lose many thousands of dollars,) but as an advertisement for our granite. Stewart & Co. have been encouraged and assisted each month by our company, and we have paid their losses. They would have thrown up the contract months ago had not we stood by them, hoping that the next month something would turn up that would enable them to make wages. I am afraid it will cost you much more, at least 20 per cent., to cut it by the days' work. We want to bring the cutting at as low a rate as we can, so as to know exactly what can be done in the future.

If it is not possible for you to *award* the *contract* to us *without* advertising our bid, (that is, if Mr. Wilder may be considered as a bid when you advertise,) there is not any money in the contract at our figures, Mr. Stewart says. I hope, whatever action you take, that you will remember that Stewart & Co. are as hard-working and faithful men as ever I saw, and that they have tried faithfully to complete their contract, and no better men than they could be found.

Our company, and more especially your obedient, are under many obligations to you for the handsome notice you gave of our stone in your report, and I trust that the time is not far distant when some of us will be able to reciprocate.

Have you that model treasurer's room complete?

Very truly, your friend,

H. L. CARVER.

TREASURY DEPARTMENT, *December* 26, 1868.

DEAR SIR: Yours of the 14th instant, in regard to the contract for granite-work of the St. Paul custom-house, is received. In reply, I have to say that I do not well see at present how anything can be done in regard to the matter. As I have no doubt that you will, in accordance with your usual custom, visit Washington before long, I will explain the case to you fully upon your arrival.

Truly, yours,

A. B. MULLETT,
Supervising Architect.

N. L. CARVER, Esq., *St. Paul, Minnesota.*

TREASURY DEPARTMENT, *January* 18, 1869.

SIR: I have to request you to advise me, at the earliest possible moment, the rates of wages paid in each branch of mechanics, and for laborers in your vicinity, in the spring of 1861, or at the opening of the war. Your early attention to this is requested.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent United States Custom-house,
St. Paul, Minnesota.

TREASURY DEPARTMENT, *January* 18, 1869.

SIR: In reply to your letter of the 6th instant, relating to the *per diem* pay of Messrs. John Stewart, John T. Young, and Matthias Breen, I have to say that the wages allowed them by you ($5 25 per day) appears to me to be high and more than the market rates. Previous to their leaving Washington they were paid by the contractor for granite-work as follows, viz.: Stewart, $4 37; Young and Breen, $4 each, per day. I consider $4 per day to be proper wages for them, inasmuch as the *majority* of your other stonecutters receive only $4, and the best of them but $4 25. I must, however, leave the matter more or less to your discretion; but cannot consent that their *per diem* should, under any circumstances, exceed $5.

With reference to their contract I have to say that I have been formally notified by them that they were compelled to abandon it, and that they have so done is evident from the fact that they are now employed by you by the day. They need not indulge in the hope of any *further consideration or allowance* on account of their contract from me; they must either carry out its provisions to the letter or abandon it *in toto*. The most I feel at liberty to do in the matter is to recommend to the Secretary to cancel their contract entirely and pay them *per diem* wages from the commencement of their operations there, together with cost of their railroad fare, &c. This I am willing under the circumstances to do.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *February* 9, 1869.

SIR: Yours of the 2d instant is received, inclosing sketch and showing proposed character of work to be done on the limestone facing of walls of the building under your charge. While admiring the handsome appearance that such work would make, I must call your attention to the fact that the cost of it is entirely too great to be attempted under our appropriation. As reported for the month of January, the cost would be 74 cents per superficial foot, somewhat in excess of your own estimate, and very much more expensive work than is contemplated by the specifications.

As you are fully informed regarding the size and capability of the material at your disposal, I will not attempt to advise you particularly what method to employ to lessen the expense of this work; but would ask you to give it your best consideration and submit another sketch giving me the result of your investigations. I would suggest, however, that a fertile cause of the great cost of dressing this rubble lies in the fact that so many of the stones are of small size. By adhering more closely to the specifications you may attain the required result within proper limits of cost. Please give the matter your immediate attention and inform me as to the result, keeping in view the fact that the execution of all work done in the building must in no wise exceed your estimate, but, if at all possible, come considerably within its limits.

Very respectfully,

A B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *February* 23, 1869.

SIR: I am in receipt of yours of the 7th instant, relative to the cost of cutting limestone and granite and quantity of sand hauled. Your explanation regarding the limestone is perfectly satisfactory, and I trust you will be enabled to keep its cost within your estimate. I find the contract price for cutting water-table to be 95 cents, and quoins $1 55. Your cutting on those articles for the month of January amounts to $2 76 per foot, a sum so largely in excess of Stewart & Co.'s contract price that the cost of the building will greatly exceed the estimate if the cutting cannot be done at a smaller price. You will please give this matter your attention and see what can be done to bring the cutting to the estimated price.

I do not understand how the sand comes to cost $1 58 per yard, the only expense being hauling. Under ordinary circumstances a yard ought to be hauled at a load and the driver do his own loading and unloading. Five yards per day would not be very heavy work, if the distance was, say, two miles from the building, and allowing $8 per day for team and driver would bring the sand to $1 50 per yard, the price usually paid by this office for similar work.

Please devise some means to reduce the cost of granite cutting, and explain why the sand is costing so much.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT,
Office of Supervising Architect March 11, 1869.

DEAR SIR: I have received a copy of the St. Paul Dispatch of February 27, with a severe article on the management of the custom-house under your charge. I, of course, understand that it is published in a "copperhead" paper, and that you have enemies enough. I do not therefore attach any importance to it of itself. Still, as you know, the progress of the work has not, up to this time, been at all what I expected; and as the appropriation bills have now passed, and as we have but an aggregate amount of $75,000 in the deficiency and the regular bill, I desire you to make a careful estimate and advise me to what point you can carry the building with that amount of money. You will please forward this estimate without delay.

You will also please obtain proposals for cutting the granite from any responsible parties in your city who may desire to bid, including Mr. Wilder, president of the new granite company, who was here a day or two since and promised to present a proposal. I desire the proposals to be made according to the schedule attached to the contract of Stewart & Co., and would beg you to forward both these proposals and your estimate at the earliest possible moment.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *November* 26, 1869.

SIR: I am in receipt of your favor of the 19th instant, inclosing estimate for putting up the first and second stories of the building under your charge. The prices there named for the granite-work are so outrageously high that I have to request you to procure bids at once for the execution of the work by contract, and forward them to this office as soon as possible. A very considerable saving must be made, or the use of that material will have to be abandoned.

I would call your attention to the estimated cost for setting belt course, which appears to me to be very high; the stones composing it are not difficult to handle, and should not exceed in cost over eighty or ninety cents to set per lineal foot. Your other items I deem reasonable, but I shall expect you to use the very utmost economy in prosecuting the work

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *November* 31, 1869.

SIR: Yours of the 24th instant is received. In reply, I have to say that after a careful examination of the proposals submitted by you I do not feel inclined to recommend the acceptance of any. I think your own estimate of the cost of the work is a liberal price, and certainly cannot recommend the acceptance of a proposal above the rate at which you estimate its cost.

Please see Mr. Wilder and say to him that I should be glad to have him revise his figures and endeavor to approximate more nearly our estimate of the cost of the work. If this cannot be done, or the present prices reduced, I shall recommend the Secretary to suspend operations entirely, and see if some cheaper material cannot be obtained, as there appears no prospect of obtaining an estimate sufficiently low to complete the building with the present material.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent United States Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *April* 1, 1869.

SIR: Yours of the 27th ultimo is received. In reply, I have to say that I will endeavor to procure and send you more granite cutters, as requested by you, and have also to say that you are authorized to place your clerk's name on the pay-roll, as requested.

I am glad to find that you are determined to push matters, and feel encouraged at the tone of your letter, it being considerably less despondent than those heretofore received. You need not fear any efforts that are made to prejudice me against you, if you can only succeed in driving things. I do not care for the opinions of any other parties, and prefer to judge for myself from the results accomplished by the officers under your charge. In this connection, I would say that I think I can send one or two first-class stone-masons or setters that have worked for me on this building for some years, and thoroughly understand granite setting, and are good, industrious workmen.

Please let me know if you have men that suit you, or if you would like some sent you.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *April* 6, 1869.

SIR: Will you please advise me by return of mail to what use you propose to put the stone excavated from the foundations of the custom-house building under your charge? My original intention and expectation was, as you know, that it would be used in the building.

Please advise me if it is available for backing or not, and report fully on the matter.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *April* 12, 1869.

SIR: Yours of the 8th instant, in regard to procuring the limestone for the custom-house building under your charge, is received. In reply, I have to say that you will please advertise for two weeks in the St. Paul Daily Press for the amount of stone necessary to complete the first two stories of the building, and will, when opened, forward the proposals in the manner required by your instructions, with your recommendations as to their acceptance or rejection. In case the lowest bid is not at a fair price and the bidder in every way responsible, you had better recommend the rejection of the bid and the purchase of the limestone in open market. You have, as I understand, sufficient stock on hand to keep you busy for some time, and there is no particular need of haste.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *April* 12, 1869.

SIR: Yours of the 7th instant, advising me that you have on hand about a thousand yards of an inferior quality of limestone, that will not be required in the building, is received. In reply, I have to say that if it is not suitable for use and cannot be used to advantage for backing, which, it appears to me, could be done, you will please advertise for proposals for purchasing the same, which you will open as provided in your instructions and forward to this office, with your recommendations in regard thereto. If no proposals be received at market prices you will then be authorized to dispose of it, on the best terms possible, by private contract.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *April* 15, 1869.

SIR: Your favor of the 9th, covering estimate to complete the granite work of the building under your charge, is received and approved. You will therefore proceed with the cutting as heretofore, using your best energies to keep the cost of the work to the lowest possible figure admissible with good work.

Very respectfully,

A. B MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *April* 16, 1869.

SIR: Yours of the 12th instant is received. In reply, I have to say that I have previously directed you to dispose of the stone piled on the ground rented for that purpose. I have now to say that it appears to me that there can be no stone in your possession that is not suitable for backing. I do not desire to sell a single cubic foot of stone and purchase other to replace it, if the stone sold can be used at all. I have therefore to say that you will not dispose of any stone unless you are confident that it cannot be used and will not be needed in the construction of the custom-house. Please consider my previous letter, authorizing you to obtain proposals, modified by this.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *April* 17, 1869.

SIR: The following persons have been engaged for the work under your charge and will leave here on Monday morning next for St. Paul: Robert Ducket, stone-cutter; James Hawkins, stone-cutter; Thomas Brennan, stone-cutter; Joseph Worth, stone-mason; Martin Kelley, stone-mason; Michael Johnson, stone-mason; James Whalen, stone-mason. Their fare has been paid through, and you will therefore please deduct the cost of tickets, viz., $38 55, from the pay of each, noting the same on the pay-roll as heretofore.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT, *April* 26, 1869.

SIR: Yours of the 21st instant is received. In reply, I have to say that. as soon as you think desirable, you are authorized to sell such stone as will not be needed by you, at public auction, in such quantities and on such conditions as you think will best subserve the interests of the Government, after advertisement in one of your papers every other day for two weeks. You will be careful to dispose of only the refuse stone, and will dispose of nothing that will need to be replaced. Should it not be practicable to sell the stone on reasonable terms and use all good stone in the building. I do not of course desire any contingent expenses that can be dispensed with.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT,
Office of Supervising Architect, June 28, 1869.

SIR: Yours of the 24th instant is received. I confess that its contents, after all that has passed, surprised me, and I feel it my duty to say that unless you can complete the two first

stories of the custom-house building under your charge this season, I shall be compelled, very reluctantly, to recommend a change in the superintendency. You have a contract with the granite company for the supply of stone, which you have the legal power to enforce. I do not propose to delay the work in order to suit the wishes of the contractors.

The contract for granite cutting was approved upon your recommendation and on your assurances that it would facilitate the work, and yet in the first I receive on the subject since the contract was signed, you inform me that the contractors cannot get hands. I really think it was time you had made arrangements to overcome the difficulties and delays in regard to your work.

Very respectfully,

A. B. MULLETT
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent United States Custom house, St. Paul, Minnesota.

TREASURY DEPARTMENT,
Office of Supervising Architect, June 1, 1869.

SIR: I have this day returned from a trip to New England and find your letter of the 26th ultimo, advising me that you had been unable to obtain any proposals for furnishing the limestone facings required to complete two stories of your building under your advertisement, and that Mr. Davidson, the owner of the quarry worked by the Government last year, has made a verbal offer to furnish the stone for 35 cents per cubic foot, delivered at the custom-house site. I find, upon examination of your reports, that the stone cost but 21½ cents per cubic foot when obtained by you. Under these circumstances I do not feel justified in authorizing you to contract with Mr. Davidson for the stone, and would prefer that you should continue to procure the material in the same manner as last summer. You will, therefore, make your arrangements accordingly.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT,
Office of Supervising Architect, June 17, 1869.

SIR: Yours of the 11th instant is received. In reply, I have to say that I am much surprised to find that the limestone facing for your building cost you last season $38\frac{1}{10}$ cents per cubic foot, as it was inferred from your reports and letters that the 21½ cents, as shown on reports, covered the entire cost.

As it appears, however, that this is not the case, and that it will cost more to obtain the small amount required for two stories of the building, if compelled to strip a quarry, than the bid of Mr. W. F. Davidson, viz., 35 cents per cubic foot, delivered at the site, I have to instruct you to purchase of him, at that price, all the limestone required for two stories of the building, and to use every effort to have it delivered and cut at the earliest possible moment. Please push matters to the utmost, as the season is rapidly passing, and no time should be lost.

Very respectfully,

J. C. RANKIN,
Acting Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT,
Office of Supervising Architect, August 2, 1869.

SIR: Your letter of the 29th instant, explaining excess of cost of work over your estimate is duly received.

The explanation now made should have been included in your letter of advice attached to your June report, trouble would thereby have been saved yourself and the Department.

I note what you say in regard to the delay and the cost incurred through want of prompt delivery of the granite. I cannot refrain from expressing my astonishment that you should assign such a reason as an excuse for excessive cost of work done under your supervision,

seeing that the conditions of the contract give you full power to take such action as you deem fit to compel a sufficient supply of material. And among your duties as superintendent one of the first is to see that the interests of the Government are protected, and no loss sustained through failure of contractors to furnish materials promptly, or employés to use them with celerity when obtained.

I have to instruct you to ascertain the exact amount of damage which has been sustained by the Department, through the failure of the contractor to furnish granite in sufficient quantities and at times to prevent delay or loss in the construction of the building, and charge the full amount of the same against him, deducting it from the drawback percentage, or from the last payment in addition, if the drawback is not sufficient to cover the entire sum lost to the Department through his negligence.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent United States Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT,
Office of Supervising Architect, September 30, 1869.

SIR: In reply to yours of the 25th instant, containing some explanation as to the excessive cost of the brick work, it is still considered by this office that the cost was extravagant; and your idea that the time of the master mechanic and other items mentioned should be deducted, a most erroneous one.

The net quantity of work (1,333 feet) you report as being made by the 30,000 bricks is surely a mistake. The Department will thank you to forward the size of brick now being used by you.

Very respectfully,

J. C. RANKIN,
Acting Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house, St. Paul, Minnesota.

TREASURY DEPARTMENT,
Office of Supervising Architect, October 16, 1869.

SIR: Yours of the 11th instant has been received. Your estimate of the number of bricks (of size quoted by you) to the cubic foot is certainly too high; 21 would require an excessively fine point, and it is not understood how more per cubic foot can be used. Your attention is drawn to this in order that in the future no discrepancy may arise between the number of bricks in walls as reported by you, and the number paid for and borne on the returns.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent United States Custom-house, St. Paul, Minnesota.

ST. PAUL, MINNESOTA, *December* 13, 1867.

SIR: Yours of the 5th instant is just received. In answer, I have to say the report for the month of November was duly forwarded on the 6th instant.

In regard to the cost of granite, from the best information I can get, after careful inquiry, I estimate the cost delivered in St. Paul at building site, as follows:

	Per foot.
Dimension granite at quarry, estimated at	$0 50
Transportation by rail 70 miles, estimated at	15
Transportation from depot to building	03
Total cost per cubic foot	68

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect, Washington, D. C.

ST. PAUL, MINNESOTA, *December* 20, 1867.

SIR: I have at last succeeded in getting two proposals for furnishing granite for the St. Paul custom-house, which I herewith inclose. Not knowing the dimensions or quality required, I was unable to give the bidders the information necessary to enable them to make as close a bid as they otherwise might have done. These will, I trust, enable you to decide as to its adoption. Should you require more accurate bids please send me the approximate sizes and quantity.

Messrs. Morris and Delano are thoroughly competent and reliable men, and will fulfill any engagement which they may make. I will add, in this connection, that they are owners of different quarries.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect, Washington, D. C.

ST. PAUL, *April* 27, 1868.

SIR: I have awarded the granite contract to F. R. Delano, esq., of this place, at 65 cents per cubic foot, delivered at custom-house site. He has already commenced quarrying and will deliver enough to start the stone-cutters by the 8th of May. I have also contracted for 300 barrels of fresh-ground cement, at $3 15 per barrel, delivered on the levee here. I expect it to arrive in time to commence the masonry by May 5. I will forward granite contract for your approval as soon as I can complete schedule.

If you can send me eight or ten good granite cutters I shall be obliged, as not more than five or six can be had here. Should more be needed they can be secured as occasion requires. My desire is to commence the work right, and am arranging all things to that end. It necessarily takes more time to organize than when accomplished workmen are at hand.

I will send to-morrow plans and estimates of derricks, tool house, office, shops, &c.

Very respectfully, &c.,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department, Washington, D. C.

JOLIET, ILLINOIS, *May* 18, 1868.

SIR: I have to acknowledge the receipt of your letter of the 13th instant, covering advertisement for the granite cutting for the custom-house St. Paul, Minnesota, and in reply would state that it will be impossible for me to give you a proposal for the work. Stone-work in the West is completely overrun this season. I went to Chicago on Friday last to get some cutters; offered them $5 per day, but could get none at that. I also tried to contract for the ashler for the Des Moines work, but the yards there have all they can do at present. I have given Colonel Shipman a bid for the stone-cutting of the Madison court-house, and if it is awarded to me shall put up machinery here. Thanking you for sending me the advertisement,

I am yours, respectfully,

C. C. MOODY
Per N. OSBURN.

A. B. MULLETT, Esq.,
Supervising Architect, &c.

ST. PAUL, MINNESOTA, *May* 25, 1868.

SIR: Your telegram of the 23d instant was not received until to-day. Granite cutting here is a new business, and I doubt if an intelligent bid can be got, though parties are beginning and favorable propositions may yet be had. All the preparations are complete and ready for the cutters, so there need be no delay after parties are found to undertake it.

I have received proposals for furnishing brick, prices ranging from $10 85 to $14 75, which I will forward as soon as I can examine the brick, which will be in a day or two.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *June* 2, 1868.

SIR: Yours of the 28th ultimo, informing me of the letting of the granite cutting to Messrs. John Stewart & Co., is this day received.

No bids have been received here, the parties referred to in my letter of the 25th ultimo having concluded not to submit proposals.

The sheds, shops, &c., are built, and all will be in readiness for the cutters upon their arrival.

Very respectfully,

A F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *June* 15, 1868.

SIR: Yours of the 9th instant is received; also full-size working drawings for the granite. The granite which has been delivered at the sheds is so very hard that Messrs. Stewart & Co. have concluded that it cannot be advantageously worked, and in consequence Mr. Delano is opening another quarry, which promises to work more easily and is much handsomer, it being of a reddish shade.

A specimen has already been dressed and finishes equal to that sent here by you. This change of quarries will occasion some delay to the granite cutters, probably about one week. In the meantime their men can work at limestone.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT,
Supervising Architect Treasury Department.

ST. PAUL, *July* 14, 1868.

SIR: Yours of the 8th instant is received, and accordingly the mechanics, laborers, and workmen are working only eight hours per day. I presume the intention is that the wages shall remain the same as when ten hours constituted a day's work, but have left that question in abeyance until further advices from you. I will, however, add that the workmen now employed will not submit to any reduction of pay.

Very respectfully, &c.,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq..
Supervising Architect Treasury Department, Washington, D. C.

ST. PAUL, MINNESOTA, *October* 26, 1868.

SIR: Yours of the 19th instant, relating to the cost of quarrying stone, is received. In reply, I have to say that the apparent high cost of quarrying stone is owing to the large proportion of stripping, 8 feet; 6½ feet of solid, but worthless, rock, and 1½ feet of earth, which had to be removed, and which has been counted in the cost of the stone already reported. All the stripping is now done and the quarry in the best working condition, and it is confidently believed that when the quarry bench is finished, which will probably be next week, that the aggregate cost of stone per yard will not be more than the cost of similar work reported last year.

I think the rock cannot be procured on contract for less than 30 cents per cubic foot.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *December* 2, 1868.

SIR: Yours of the 23d ultimo, in relation to remittal of funds and suspension of work, was duly received and contents noted. In regard to quarrying stone I submit the following report:

Cost of stripping quarry	$2,493 81	
Cost of hauling stripping from quarry	1,185 95	
		$3,679 76
Cost of quarrying stone, 792⅓ yards	2 327 67	
Cost of hauling same from quarry to site	1 482 44	
Cost of stone in bed	789 60	
		4,599 71
Total cost, including stripping		8,279 47

Cost of quarrying stone, per cubic foot	$0.1088
Cost of hauling stone, per cubic foot	0.0692
Cost of stone, per cubic foot	0.0369
Total cost, per cubic foot	0.2149

I have examined the subject of quarrying as thoroughly as possible, but owing to not having kept separate accounts of the cost of stripping and cost of hauling away the refuse stuff, am unable to give more than an estimate of the cost of each item of work, based upon what I know has been done some days at a certain cost. In compliance with your instructions, all work except that necessary to protect the foundation walls, and also making and putting in skylights in granite cutters' sheds' has been suspended.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *January* 6, 1869.

SIR: The proposition to Messrs. Stewart & Co., to continue the work by the day, has been submitted to them and been accepted, to take effect on abandonment of their contract, December 4, 1868. The wages per day asked by them are higher than we have been paying, but I regard their prices as satisfactory, considering the ability of the men, and would refer you to the pay-roll for December, which will be forwarded in a few days, for the detail of prices.

Messrs. Stewart & Co. desire to leave the old contract open for the present for further consideration, in hopes of securing an allowance to pay them for the unexpected difficulty of working the granite.

Arrangements can be made to prosecute the limestone dressing, the workmen to receive pay whenever appropriation shall be made for the same. Work will be commenced at once.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *January* 25, 1869.

SIR: Yours of the 18th instant in relation to the rates of wages for mechanics and laborers in the spring of 1861, in this vicinity, was duly received.

In reply, I have to say the prices paid *per diem* were as follows: Carpenters, $1 25 to $1 50; masons, $1 50 to $1 75; plasterers, $1 50 to $1 75; laborers, $0 75 to $1; stonecutters, $1 75 to $2.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *February* 2, 1869.

SIR: Inclosed find sketch of limestone face for custom-house at this place. I expect to reduce the cost of dressing limestone this month about 20 per cent. for face-work, as only the larger stones are now being dressed, the smaller stones to be fitted by the masons on the scaffold. The stones are being dressed to about a $\frac{5}{8}$-inch joint, and pitched to a line. By dressing limestone this winter, the work is being better done than could be by masons on the scaffold, and will greatly tend to forward the progress of the building the coming season.

The sketch is sent for the purpose of giving an idea of the character of work being done, and also to enable you to make any suggestions deemed advisable. Is has been found necessary to employ some competent person to take charge of the limestone dressing and preparing stone for the cutters; I have, therefore, deemed it advisable to engage Mr. Milner, at $4 per day.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *March* 2, 1869.

SIR: Yours of the 23d ultimo was duly received. In the item of expense for sand the cost has been increased by the difficulty of procuring suitable material; the water rising froze the surface of our bank, which had to be picked off, thereby requiring more labor than would otherwise have been the case; and a part of the time the roads were bad, so that a full load could not be hauled, and I feared to suspend the work, as the water might continue to rise and prevent our getting the sand. We are now getting a finer quality of sand for the granite setting, at a different locality, which is costing about $1 per yard.

In regard to the cost of granite cutting, the necessity of doing more work has been repeatedly urged, without producing satisfactory results so far. The men seem to work faithfully, but the material is very hard to work, so that not much can be turned out per day. The men are not doing as much now as under the contract with Stewart & Co., and it will be difficult to get as much work out of this set of men, or, in fact, any set of men, by the day as by contract. I am satisfied the cutting cannot be done for the contract price. The water table, and some other portions of the work, cost about double the schedule price while worked by contract.

I know of no plan by which the granite can be cut for the contract price.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *March* 17, 1869.

SIR: Yours of the 11th instant was duly received. In relation to the article in the St. Paul Dispatch of the 27th ultimo, I have only to say that I am accountable to the Supervising Architect and Treasury Department for my bad management, or other offenses which I may have or may commit, and not to the Dispatch or to any persons who may regard it as their especial province to meddle with matters which they do not understand, and of which they have no right to speak.

I must admit that the progress of the work last season was anything but satisfactoryto me; most of the difficulties which embarrassed and retarded the work then have been surmounted and will not have to be dealt with this season.

One thing is certain, I will show a proper amount of work for the money expended, or leave the position for one who may do better. I will complete and forward without delay the required estimate, showing how far the appropriation of $75,000 will carry the work. I will also send the proposals for granite cutting as soon as they can be obtained.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *March* 24, 1869.

SIR: I herewith inclose for your consideration the proposals received for the completion of the granite cutting for the building under my charge. The bidders are all men of wealth.

Mr. Wilder possesses facilities superior to any one here for doing the work, and as his is the lowest bid I would recommend that it receive your favorable consideration. I do not think the work can be pushed as rapidly as he proposes, and as fast as it will be required, for less wages than $5 a day per man, and estimating upon that basis do not consider his proposal too high. I inclose a letter from Mr. Wilder which shows fully what he proposes to do in case the contract shall be awarded to him.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *March* 31, 1869.

SIR: Yours of the 26th instant, relating to my estimate of the cost of putting up the first and second stories, and also to the apparent high cost of setting belt course and cutting granite, is received. In reply, I have to say that the belt course may not cost as much as it was estimated. The cost of setting includes the cost of moving it from the cutters' shed to the building.

The proposals for granite-cutting already forwarded, as you will see, are still higher than my estimate. If desired, I will attempt to get a more favorable proposition, or, if thought best, endeavor to economize some by working it by the piece, day, or in any manner which, in your judgment, you may deem best.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *April* 5, 1869.

SIR: Yours of the 31st ultimo is received. I have seen Mr. Wilder to-day, and he has promised to revise his proposal, and if practicable, reduce it so that it may be acceptable to you. My estimate of the third story is far enough advanced to show that it can be done for considerable less than Mr. Wilder proposed.

It is based upon the same data as first and second stories, and will enable you the better to judge of the correctness of Mr. Wilder's proposal.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *April* 7, 1869.

SIR: I have on hand about 1,000 yards of rock of inferior quality, and not required in the building, stored on rented ground, costing $150 per annum. At this season of the year, there is a demand for such material. I would, therefore, recommend that you authorize its sale and removal, so that the ground may be used to better advantage, or the rent of the same saved to the Government.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *April* 8, 1869.

SIR: In your letter of October 19, 1868, you inquired whether the limestone required to complete the custom-house could not be procured in the market or by contract cheaper than by working a quarry. From inquiries made since then I am satisfied that it can be. The working of the quarry last year was not satisfactory, the cost being considerably more than

I had estimated or expected. Some more first quality dimension stone (about 1,000 cubic feet) will be required to complete two stories. From past experience I cannot expect to work the quarry to better advantage this year than last, and I would therefore recommend that proposals for the deficiency be received for its supply by the cubic foot; or that it be purchased in open market. The latter I think the preferable way.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *June* 24, 1869.

SIR: Yours of the 17th instant, in relation to the purchase of limestone required for the completion of first and second stories of United States custom-house here, is received, and in accordance with the instructions therein, the agreement with W. F. Davidson has been concluded, and he is now engaged in quarrying and delivering the stone.

I have so far been unable to procure granite as fast as required or expected, and have in consequence been compelled to reduce the force of workmen. A change has been made in the management of the quarry, which it is believed will supply the rough granite as fast as required. Nothing then will be lacking but a complete force of granite-cutters, which the contractor assures me he is endeavoring to procure, but his efforts so far have been rewarded with but little success.

If the granite drawback can be overcome there is still abundant time to complete the two stories.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, *December* 19, 1867.

SIR: Understanding that you may require some granite stone in the construction of the St. Paul custom-house, I have the honor to submit the following proposal for first-class material, delivered on the site of building, Wabashaw street, St. Paul: For all stone, 1 by 2, 1 by 3, 1 by 4, 2 by 2, of lengths from 4 to 10 feet, at the rate of, per cubic foot, 56 cents. I am now taking out stone from my quarry for the St. Cloud bridge.

Respectfully, your obedient servant,

CHAS. A. F. MORRIS.

A. F. KNIGHT, Esq.,
Architect St. Paul Custom-house.

ST. PAUL, *December* 20, 1867.

SIR: In reply to your request for a bid to furnish granite for the St. Paul custom-house, I have to say that I will furnish dimension granite, delivered at the custom-house, for and at a price ranging from 35 to 100 cents per cubic foot, according to the size and shape of the blocks required. Without a bill of the sizes I cannot give you an exact figure, but from my knowledge of the work should think that about 65 cents per cubic foot would be the price for all required. Will give you the exact figure if you will furnish me an exact bill of the dimensions and how they are to dress.

Yours, respectfully,

F. R. DELANO.

A. F. KNIGHT, Esq., *St. Paul.*

ST. PAUL, MINNESOTA, *February* 18, 1868.

SIR: For four years I acted as commissary and quartermaster in the United States Army. Have a clean release from all my accounts, and my bondsmen have been released. Have been fifteen years in this country. So much for introduction.

My purpose in writing you is to give you the information that I am the owner of 123 acres of solid granite, at a town called Watab, on the Upper Mississippi. This granite is pronounced to be very excellent and is the only great upheaval in the Mississippi Valley. David Dale Owen, in his official report, says, page 168: "Near the road and about two

miles from the Osakis (Sauk) Rapids, there rises out of the prairie a dome-shaped mass of syenitic granite, elevated 10 to 12 feet above the level of the plain. It is worthy of notice here, as being the first rock found *in situ* on the land route from the Falls of St. Anthony to Crow Wing."

On page 166 he says: "Seven or eight miles above Osakis (Sauk) Rapids is a high exposure of crystalline rocks. A ridge of hornblende and syenitic greenstone, with veins of granite bearing north 70° to 80° east, rises on the east side of the Mississippi to the height of 30 to 40 feet; and a short distance further back even to the height of 60 to 70 feet."

Watab is four miles above Sauk or Osakis Rapids and a mile or two below Little Rock, on the Upper Mississippi. It is here where the rock rises from 60 to 70 feet—granite.

If the custom-house of this city is to be built of granite, I desire an opportunity to put in a bid.

Respectfully yours,

T. M. NEWSON,
Formerly Brevet Major, C. S. United States Army.

Hon. A. B. MULLETT,
Supervising Architect Treasury Department, Washington, D. C.

John Stewart & Co.'s proposal for cutting the granite-work for the custom-house at St. Paul, Minnesota.

I hereby propose to do the granite-cutting required by the plans and specifications for the custom-house at St. Paul, Minnesota, as follows, viz:

No. 4. Hammered work:	
702 superficial feet of underpinning, at $1 46	$1,024 92
350 feet 9 inches, lineal, of underpinning, with wash, at $2 60	911 95
187 feet, lineal, of area coping, at $1 68	314 16
2,160 feet, superficial, of quoins of building, at $1 55	3,348 00
4 117 feet, superficial, of quoins of doors and windows, at $1 55	6,381 35
8 chimney tops of 16 feet girth, 12 feet high, at $350	2,800 00
No. 3. Hammered work:	
200 feet, lineal, of water-table, at 95 cents	190 00
436 feet, lineal, of steps, at $1 80	784 80
160 feet, superficial, of platforms, at 96 cents	153 60
476 feet, superficial, of sills, at $1 28	609 28
12 double windows, second story, at $1,060	12,720 00
12 double windows, third story, at $815	9,760 00
2 triple windows, (narrow,) second story, at $1,200	2,400 00
2 triple windows, (narrow,) third story, at $1,150	2,300 00
2 triple windows, (wide,) second story, at $1,238	2,476 00
2 triple windows, (wide,) third story, at $1,200	2,400 00
4 circular gable windows, at $245	980 00
425 feet 6 inches, lineal, of belt-courses, at $5 90	2,510 45
369 feet 4 inches, lineal, of horizontal cornice, at $27	9,972 00
134 feet, lineal, of raking cornice, at $28	3,752 00
4 turrets, 21 feet girth, 16 feet high, at $495	1,980 00
4 turrets, 13 feet 4 inches girth, 12 feet high, at $365	1,460 00
No. 2. Hammered work:	
2 doors with narrow side-lights, at $1,075	2,150 00
2 doors with wide side-lights, at $1,238	2,476 00
2 double doors, at $1,045	2,090 00
10 double windows, at $1,085	10,850 00
Total	86,794 51

John Stewart & Co.'s prices for stone cutting, as accepted June 2, 1868.

702 superficial feet of underpinning, at $1 46	$1,024 00
350 feet 9 inches, lineal, of underpinning, with wash, at $2 60	911 00
187 feet, lineal, of area coping, at $1 68	314 00
2,160 feet, superficial, of quoins building, at $1 55	3,348 00
4,117 feet, superficial, of quoins doors and windows, at $1 55	6,381 35
8 chimney tops of 16 feet girth, 12 feet high, at $350	2,800 00
200 feet, lineal, of water-table, at 95 cents	190 00

436 feet, lineal, of steps, at $1 80	$784 80
160 feet, superficial of platforms, at 96 cents	153 60
476 feet, superficial, of sills, at $1 28	699 28
12 double windows, second story, at $636	7,632 00
12 double windows, third story, at $489	5,868 00
2 triple windows, narrow, second story, at $720	1,440 00
2 triple windows, third story, at $690	1,380 00
2 wide windows, second story, at $742 80	1,485 60
2 wide windows, third story, at $720	1,440 00
4 circular gable windows, at $245	980 00
425 feet 6 inches, lineal, of belt courses, at $5 90	2,510 45
369 feet 4 inches, lineal, of horizontal cornices, at $27	9,972 00
134 feet, lineal, of raking cornices, at $28	3,752 00
4 turrets, 21 feet girth, 16 feet high, at $495	1,980 00
4 turrets, 13 feet 4 inches girth, 12 feet high, at $365	1,460 00
2 doors with narrow side-lights, at $645	1,290 00
2 doors with wide side-lights, at $742 80	1,485 60
2 double doors, at $627	1,254 00
10 double windows, at $651	6,510 00
Total	66,955 68

ST. PAUL, MINNESOTA, *July* 20, 1868.

DEAR SIR: Your order to Mr. Knight, superintendent, &c., directing him to adopt eight hours as a day's work for employés on the United States custom-house and post office at this place, has compelled us to do the same with our granite cutters, as they refused to work side by side on the same work ten hours per day; there was no alternative except to stop work. Our price for cutting is so low, as you are well aware, that we cannot, without loss, complete our contract, unless we are allowed at least an advance ono ur contract rates, equal to the reduction from ten hours to eight—a day's work (before the issuing of your order) of ten hours being equaled by a day and a quarter, under the new law. We trust you will at once see the justness of our claim, as it places us only in the same position that we were under the ten-hour system, when we took our contract, and before the issuing of your order. We shall be pleased to hear from you at your earliest convenience.

Very respectfully, your obedient servants,

JOHN STEWART & CO.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department, Washington City.

ST. PAUL, MINNESOTA, *November* 4, 1868.

DEAR SIR: We are under the necessity of throwing up our contract for cutting the granite for the St. Paul custom-house and post office. The granite is very much and at least 25 per cent., harder to cut than eastern granite that is used in Government buildings in Washington, or any sample of stone that we have ever seen or cut. The passage of the eight-hour law by Congress since we took the contract has compelled us to pay our granite cutters the same wages for eight hours' work that we did for ten hours' work. Each of our firm has steadily been to work at the bench with the cutters for over five months, and have not been able to make enough to pay wages. We are satisfied, after a long and hard trial, that we cannot complete the contract without a loss of more than we can pay.

Very respectfully, your obedient servants,

JOHN STEWART & CO.

A. B. MULLETT, Esq.

ST. PAUL, *December* 4, 1868.

SIR: I have just been informed that it is the intention of Messrs. John Stewart & Co. to abandon their contract made with you for the cutting of granite for the St. Paul custom-house and post office. If they have abandoned their contract, I will propose to cut the balance of the granite required for the buildings at the prices named in the schedule inclosed provided my proposition is accepted immediately, so as to enable me to secure the services of the cutters who have been in the employ of Stewart & Co. before they leave the country, as granite workers are not to be found in Minnesota.

Should a contract be given me, I will enter into bonds at once, and will name for bondsmen Horace Thompson and John L. Merriam of this place.

I would respectfully refer you to the Hon. John J. Knox or Senator Ramsey as to my responsibility and that of my proposed bondsmen.

Very respectfully,

A. H. WILDER.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department, Washington, D. C.

A list of prices for cutting stone.

No. 4. Hammered work:	
Underpinning, per superficial foot	$1 82½
Underpinning with wash, per lineal foot	3 25
Area coping, per lineal foot	2 10
Quoins of building, per superficial foot	1 93¾
Quoins of doors and windows, per superficial foot	1 93¾
Chimney tops of 16 feet girth, 12 feet high, each	437 50
No. 3. Hammered work:	
Water table, per lineal foot	1 18¾
Steps, per lineal foot	2 25
Platforms, per superficial foot	1 20
Sills, per superficial foot	1 60
Double windows, second story, each	795 00
Double windows, third story, each	611 25
Triple windows, second story, narrow, each	900 00
Triple windows, third story, narrow, each	862 50
Triple windows, second story, wide, each	928 50
Triple windows, third story, wide, each	900 00
Circular gable windows	306 25
Belt courses, per lineal foot	7 37½
Horizontal cornice, per lineal foot	33 75
Raking cornice, per lineal foot	35 00
Turrets, 21 feet girth, 16 feet high, each	618 75
Turrets, 13 feet 4 inches girth, 12 feet high, each	456 25
No. 2. Hammered work:	
Doors with narrow side lights, each	806 25
Doors with wide side lights, each	928 50
Doors	783 75
Double windows, each	813 75

List of prices referred to in my letter of December 4, 1868.

A. H. WILDER.

ST. PAUL, *March* 22, 1869.

DEAR SIR: Inclosed please find proposition to cut granite for the United States custom-house and post office at St. Paul, Minnesota. The granite company which I represent have abundant means and better facilities for doing this work expeditiously than any other parties. If the contract is awarded me I will give undoubted security to comply with the terms thereof, and there shall be no delay in the cutting that shall retard the speedy completion of the building. I would name as my bondsmen John L. Merriam and Henry L. Carver, of St. Paul, Minnesota.

Very respectfully,

A. H. WILDER.

A. F. KNIGHT, Esq.,
Superintendent, &c.

A. F. KNIGHT, Esq., *Superintendent, &c.:*

The undersigned, resident of St. Paul, Minnesota, proposes to do the granite cutting for the St. Paul custom-house and post office for the following prices, namely, the United States to furnish tools, sheds and shops, and remove granite from sheds when cut:

Area coping, per lineal foot	$2 40
Quoins for building, per superficial foot	2 90
Quoins for doors and windows, per superficial foot	2 90
Chimney-tops, 16 feet girth, 12 feet high, each	510 00
Steps, per lineal foot	2 50
Platforms, per superficial foot	1 70

Sills, per superficial foot	$1 90
Double windows, second story, each	750 00
Double windows, third story, each	640 00
Triple windows, second story, narrow	1,075 00
Triple windows, third story, narrow	1,050 00
Triple windows, second story, wide	1,375 00
Triple windows, third story	1,350 00
Circular gable windows	300 00
Belt courses, per lineal foot	13 50
Horizontal cornice, per lineal foot	35 00
Raking cornice, per lineal foot	37 00
Turrets, 21 feet girth, 16 feet high	1,310 00
Turrets, 13 feet 4 inches girth, 12 feet high	900 00
Doors and narrow side lights	1,200 00
Doors and wide side lights	1,525 00
Double doors	825 00
Double windows	740 00
Louis-holes, large, each	75
Louis-holes, small, each	50

Very respectfully,

A. H. WILDER.

ST. PAUL, *March* 22, 1869.

Wm. A. S., clerk United States district court, district of Minnesota.
H. M. K., disbursing agent, custom-house.
A. F. K., superintendent United States custom-house.

ST. PAUL, MINNESOTA, *April* 9, 1869.

SIR: I herewith inclose estimate of granite cutting for third story of United States custom-house at St. Paul, Minnesota, and also estimate of cost of cutting outside steps and area coping. This estimate, together with the one sent you dated March 19, 1869, for cost of completion of first and second stories, completes the estimate of granite cutting for the entire building, with the exception of the inside steps and platforms.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

Estimate of cost of granite cutting on third story, main cornice, and turrets, &c., of United States custom-house at St. Paul, Minnesota.

12	double windows, at $610	$7,320 00
2	triple windows, narrow, at $970	1,940 00
2	triple windows, wide, at $1,400	2,800 00
2	circular windows, large, at $250	500 00
2	circular windows, small, at $200	400 00
1,520	superficial feet quoins, at $3	4,560 00
369⅓	lineal feet horizontal cornice, at $34 25	12,649 67
134	lineal feet raking cornice, at $32 50	4,355 00
4	turrets, 21 feet 4 inches girth, 16 feet high, at $1,150	4,600 00
4	turrets, 13 feet 4 inches girth, 12 feet high, at $590	2,360 00
7	chimney tops, 16 feet 5 inches girth, 12 feet high, at $555	3,885 00
1	chimney top, 17 feet 4 inches girth, 12 feet high, at $577 50	577 50
1	chimney top, 11 feet 3 inches girth, 5 feet 6 inches high, at $225 50	225 50
	Total	46,172 67

Cost of cutting outside steps and area coping.

197	lineal feet area coping, at $2 25	$443 25
514	lineal feet steps, at $2 40	1,233 60
160	superficial feet, platforms, at $1 60	256 00
	Total	1,932 85

ST. PAUL, MINNESOTA, *April* 12, 1869.

SIR: I herewith inclose a revised proposal from Mr. A. H. Wilder for the completion of the granite cutting, which is about half way between his former proposal and my complete estimate. I do not think any contractor can be found here to undertake the work for less than he proposes. My estimate was based upon the per diem pay heretofore reported, and if it becomes necessary, as I think it will, to increase the pay twenty-five cents a day to secure the requisite force necessary to cut the granite as fast as the balance of the work can be pushed, in that case, in my opinion, Mr. Wilder's estimate is not too high.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

ST. PAUL, MINNESOTA, *April* 8, 1869.

DEAR SIR: I will modify and restate my proposition of March 22, to do the granite cutting of the St. Paul custom-house and post office (the United States furnishing tools, sheds, and shops, and removing the granite from the sheds when cut) to the following prices, viz:

Area coping, per lineal foot	$2 40
Quoins of building, per superficial foot	2 60
Quoins of doors and windows, per superficial foot	3 00
Chimney tops 16 feet 5 inches girth, 12 feet high, each	555 00
Chimney tops 17 feet 4 inches girth, 12 feet high, each	577 50
Chimney tops 11 feet 3 inches girth, 5 feet 6 inches high, each	225 00
Steps, per lineal foot	2 40
Platforms, per superficial foot	1 60
Sills, per superficial foot	1 70
Double windows, second story, each	710 00
Double windows, third story, each	625 00
Triple windows, second story, narrow, each	955 00
Triple windows, third story, narrow, each	970 00
Triple windows, second story, wide, each	1,300 50
Triple windows, third story, wide, each	1,400 00
Circular gable windows, large	270 00
Circular gable windows, small	240 00
Belt course, per lineal foot	13 50
Horizontal cornice, per lineal foot	34 25
Raking cornice, per lineal foot	35 50
Turrets 21 feet 4 inches girth, 16 feet high, each	1,150 00
Turrets 13 feet 4 inches girth, 12 feet high, each	740 00
Doors with narrow side lights, each	1,035 00
Doors with wide side lights, each	1,450 00
Double doors, each	740 00
Double windows	710 00

Very respectfully,

A. H. WILDER.

A. F. KNIGHT, Esq., *St. Paul, Minnesota.*

TREASURY DEPARTMENT, *April* 16, 1869.

SIR: I have your favor of the 12th instant, inclosing Mr. Wilder's revised bid for granite cutting on the building under your charge. The bid submitted by Mr. Wilder is not sufficiently low to induce me to recall my letter of yesterday approving your estimate of the granite cutting, and authorizing you to do the work. You will therefore continue to cut the work as heretofore, and under no circumstances exceed your own estimate; but, as before advised, use every effort to come within your figures, which I consider ample though not unreasonable.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT, Esq.,
Superintendent Custom-house St. Paul, Minnesota.

ST. PAUL, MINNESOTA, *April*, 27, 1869.

SIR: I have seen Mr. A. H. Wilder and informed him of your decision in relation to his revised proposal for the completion of the granite cutting for the building under my charge; and upon my solicitation and assurance of the correctness and fairness of my estimate, he has reconsidered the subject, and now proposes, with your approval, to enter into a contract to complete the balance of the work for the prices, and in accordance with my estimate.

I infer from your letter that the above proposition will be satisfactory to the Department, and have so expressed myself to Mr. Wilder.

Very respectfully,

A. F. KNIGHT,
Superintendent United States Custom-house.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

Private.] OFFICE OF THE ST. PAUL PRESS,
St. Paul, Minnesota, April 27, 1869.

DEAR SIR: I learn that A. H. Wilder, president of the Granite Company, has to-day signed a contract for the granite cutting on the basis of Knight's estimate. I earnestly hope you will award him the contract on these terms, which I think you told me would be satisfactory to you. I urge it upon grounds of public interest. The contract has been taken by the Granite Company at these figures very reluctantly, for the most rigorous economy and good fortune will enable them to realize but a very narrow margin of profit. But it is highly important in every public sense and to the interests of the custom-house itself that the Granite Company should have the contract. Their contract to furnish granite for the building has been a losing one, on account of the great expense of opening the quarry, &c., and it would be a great public injury to the State and to the Mississippi Valley if they were obliged to close the quarry. Its successful operation would be a great advantage to all Government structures needing granite. I understand that the work can be done at least as cheaply under this contract as under the present plan of day wages, while, with regard to economy and good management, the company may realize a small profit, sufficient to reimburse them for a part of their losses, and enable them to continue the working of the quarry. I would therefore earnestly advise that the contract be given to the company. I learn that the terms they now accede to are far below those previously offered, which the company considered reasonable.

Please, on receipt of this, telegraph me whether their bid is accepted, and oblige,

Yours, very sincerely,

J. A. WHEELOCK.

Hon. A. B. MULLETT.

TREASURY DEPARTMENT, *May* 4, 1869.

DEAR SIR: Yours of the 27th ultimo is received. In reply I have to say that I have this day obtained the consent of the Secretary of the Treasury to accept Mr. Wilder's offer to cut the balance of the granite work, and have written Mr Knight accordingly.

Truly yours,

A. B. MULLETT,
Supervising Architect.

J. A. WHEELOCK, Esq.,
St. Paul, Minnesota.

Schedule of prices of A. H. Wilder for cutting granite work for the custom-house and post office at St. Paul, Minnesota, according to his contract, and of which this schedule is a part.

No. 4. Hammered work:	
Area coping, per lineal foot	$2 25
Quoins of building, per superficial foot	2 60
Quoins of doors and windows, per superficial foot	3 00
Chimney tops, 16 feet 5 inches girth, 12 feet high, each	555 00
Chimney tops, 17 feet 4 inches girth, 12 feet high, each	577 50
Chimney tops, 11 feet 3 inches girth, 5 feet 6 inches high, each	225 50
No. 3. Hammered work:	
Steps, per lineal foot	2 40
Platforms, per superficial foot	1 60
Sills, per superficial foot	1 70
Double windows, second story, each	632 25

Double windows, third story, each	$610 00
Triple windows, second story, narrow, each	897 75
Triple windows, third story, narrow, each	970 00
Triple windows, second story, wide, each	1,300 50
Triple windows, third story, wide, each	1,400 00
Circular gable windows, large, each	250 00
Circular gable windows, small	200 00
Belt course, first course, per lineal foot	3 00
Belt course, second course, per lineal foot	10 50
Horizontal cornice, per lineal foot	34 25
Raking cornice, per lineal foot	32 50
Turrets, 21 feet 4 inches girth, 16 feet high, each	1,150 00
Turrets, 13 feet 4 inches girth, 12 feet high, each	590 00
No. 2. Hammered work:	
Doors, with narrow side lights, first story, each	897 55
Doors, with wide side lights, first story, each	1,300 50
Triple windows, rear end, first story, each	897 75
Louis-holes, large	75
Louis-holes, small	50

TREASURY DEPARTMENT, *April* 9, 1870.

SIR: I inclose herewith copy of a letter I have this day written to Mr. A. H. Wilder, contractor for the granite cutting of the building under your charge, and have to say that you will please make no further payments to him until further orders.

Very respectfully.

A. B. MULLETT,
Supervising Architect.

A. F. KNIGHT,
Superintendent Custom-house, St. Paul, Minn.

TREASURY DEPARTMENT, *April* 9, 1870.

SIR: Mr. T. S. Newson has made charges that you and your company first induced the original contractors for the granite cutting of the St. Paul custom-house (Messrs. Stewart & Co.) to abandon their contract, and afterward conspired with them or others to increase the cost of the cutting when done by days' work, in order to obtain the contract for the remainder of the work at the present rates, which he (Newson) alleges to be exorbitant, and to have been paid in consequence of the action above referred to.

Under these circumstances, I deem it my duty to inform you that no further payments will be made you on account of the work, until Mr. Newson has had an opportunity of sustaining his allegations, or you have furnished satisfactory evidence of the falsity of the same.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

A. H. WILDER, Esq.,
Contractor for Granite Work, Custom-house, St. Paul.

ST. PAUL, *April* 15, 1870.

SIR: Your letter of the 9th instant is received, and in reply most respectfully protest against your action in suspending payment of my account for cutting granite for St. Paul custom-house, under contract made with you May, 1869. The charges made against me by T. M. Newson are false in every particular, and I see no justice in the withholding of moneys due me for labor performed under the contract, upon the report of any sorehead that may turn up.

I inclose you affidavits which I think will satisfy any reasonable set of men of the honesty of the granite-cutting contract. I will be in Washington Thursday the 21st instant, to go before the committee of investigation, and wish you could so arrange it that I can be heard on that day, as I shall be anxious to return to St. Paul the earliest moment possible.

I will bring with me the books of the Granite Company and my own account for cutting, which will fully show all the receipts and expenditures connected with the furnishing of the granite and the cutting of the same under my contract. You or the committee can then see just the status of the profit and loss account, and on examination I am inclined to think you will say the price for both granite and the cutting should be increased.

Very respectfully,

A. H. WILDER.

A. B. MULLETT,
Supervising Architect, Washington, D. C.

DISTRICT OF MINNESOTA, *ss:*

Amherst H. Wilder, of the city of St. Paul, county of Ramsey, and State of Minnesota, having been duly sworn, deposes that he is the president of the Minnesota Granite Company; that when the said company learned that the firm of Stewart & Co. were deliberating as to giving up their contract for dressing the granite to be used in the construction of the St. Paul custom-house, that the said company and those interested therein then stated to the said Stewart & Co., as was the fact, that the said company desired to introduce the said granite and bring it into notice, repute, and use, and that it was believed that the said granite would become more tractable and work softer when taken from a greater depth in it would be in the progress of opening and working the quarries, and endeavored to induce the said firm to proceed in the performance of the said contract, and to that end promised the said firm to indemnify it against loss in the performance thereof, provided the said firm would go on and use their best endeavors to perform the same; that the said firm did thereupon proceed and work at a loss, and the said company did therefore pay said firm the said loss; that at about this time the act of Congress commonly called the eight-hours law became operative, and that the said firm, for reasons which deponent believes to be truly stated in the affidavits of Messrs. Stewart, Young, and Breen, made in this matter, abandoned the said contract; that the said firm abandoned the said contract without any inducement, procurement, act, or device whatever of this deponent, or of the said Granite Company, or of any person for them or him, this deponent, whether directly or indirectly made; that neither this deponent nor any person for him or for said company with his consent or authority or otherwise, or with the consent or authority of the said company or otherwise, ever directly or indirectly endeavored to influence or in any manner advised or connived or interfered or induced the said firm or either of the members thereof, or any persons employed by them, to increase the cost of cutting when done by the day's work, or to insufficiently or inadequately perform any labor or duty in the premises, or abandon the said contract, but, on the contrary, endeavored to induce the said firm to go on and perform the same.

Deponent further says that after the said firm had abandoned the said contract he made a proposal for the said work, and that the contract therefor was awarded to him May 19, 1869; and that he took the same for the benefit of the said Granite Company; and that soon after the contract was awarded to this deponent he employed the persons who had formerly been engaged on the said work, who were on the ground, and were, as deponent is informed and believes, the only granite cutters in the West; that up to November 1, 1869, this deponent carried on the said contract for the benefit of the said Granite Company, at which time the said company, concluding that their interest was not remunerative, passed, at a meeting of said company, a resolution, of which the following is a copy, viz:

"*Resolved*, That the board of directors be, and they are hereby, authorized to transfer the contract for granite cutting, executed May 19, 1869, by the United States Government and A. H. Wilder, to any responsible individuals who will consent to assume it and to continue the work for at least six months from this date, with an obligation on the part of such individuals to release this company from any liabilities connected with said contract.

"NOVEMBER 4, 1869."

That the said company thereupon withdrew from all interest in the said contract, and left deponent to carry it out alone, which he has since done; that up to November 1, 1869, the profits of the said contract had been less by between three and four thousand dollars than the cost of quarrying and transporting the said granite; that since November 1, 1869, the said contract, though under the best possible management, has not netted 10 per cent. profit.

Deponent further says that he knows T. S. Newson; that in November 1869 the said Newson came to this deponent and requested deponent to give him, Newson, a contract to dress the granite for the said custom-house; that the said Newson then and there claimed that he could do it for 40 or 50 per cent. less than it was then costing; that deponent replied that he would be glad to have it so done, if it were possible to do it at a less rate; that deponent asked the said Newson if he could have cutting done any cheaper than deponent was having it done; that said Newson then said that he did not purpose to dress by hand, that he owned a patent right for dressing granite and proposed to do the dressing by a machine to be constructed under such patent; deponent thinks Newson stated that he procured the said patent right from Massachusetts. Deponent then asked Newson if he had the machinery ready, to which the latter answered that he had not, but that he had a model; he, the said Newson, then went on to say that he wanted the deponent to advance the money necessary to build such machine at Saint Paul, with which to do the proposed dressing; the deponent then told the said Newson that he couldn't advance the money unless Newson would give him security for the amount to be advanced, Newson having stated that the said machine would cost from $1,000 to $1,500; that Newson never gave or tendered to the deponent any security whatever, and that to the best of deponent's belief he could not do so; that the said Newson is a resident of St. Paul, and has been in that city and vicinity ever since the said custom-house was commenced, and never made, so far as deponent can learn, any complaints or charges in the premises until this deponent declined to yield to his aforesaid demands.

Deponent further says that he has always and in all things acted in this matter in entire good faith toward the United States, and respectfully protests against his compensation in

the premises being withheld or detained by reason of anything heretofore alleged in the premises, and that deponent is ready to confront the said Newson and meet all charges which he may make in this matter.

A. H. WILDER.

Subscribed and sworn before me this 15th day of April, 1870.

WM. A. SPENCER,
United States Commissioner District of Minnesota.

DISTRICT OF MINNESOTA, *ss:*

F. R. Delano, of the city of St. Paul, county of Ramsey and State of Minnesota, having been duly sworn, deposes and says: That for more than three years last past, he has been the superintendent of the first division of the St. Paul and Pacific Railroad Company, whose railroad runs from St. Paul to Sauk Rapids, Minnesota; that deponent is a stockholder in the Minnesota Granite Company; that this deponent has the contract for furnishing granite to be used in the construction of the custom-house at St. Paul aforesaid; that he has performed and is performing the said contract for the benefit of the said Granite Company, the said company sharing profits and losses; that the quarries from which the said granite is obtained are situate on the line of said railroad about seventy-three miles from said St. Paul, and about two miles from the nearest depot; that deponent at one time owned the said granite quarries and has since sold a portion of the lands upon which the same are situate to the said company; that the said granite quarries are the only quarries on the line of the said railroad which have ever been opened or worked; that there is no other granite land on the line of the said road, immediately adjacent thereto, but that the said road is the only road between the same and St. Paul, and that all granite must necessarily be transported to St. Paul over the said road.

Deponent further states that, a long time before he obtained his contract, he became convinced that the granite aforesaid was valuable for building purposes, although this view of the deponent was not then concurred in by many persons who were incredulous upon that point, and who maintained that the cost of quarrying the said granite and of transporting the same, and of cutting the same, would be so great as to render any attempt to use the same for building purposes impracticable for the aforesaid alleged reasons; that this deponent took the said contract with no view or expectation of profit therefrom, but, on the contrary, in anticipation of pecuniary loss therefrom for the reason that he was desirous of developing the said quarries and of demonstrating the value and utility of the said granite and with a view to future freights, he being an officer of the said road as aforesaid; that for these reasons the said railroad company conceded to this deponent personally a special rate of transportation of the said granite, not equal to the cost of transportation; that for the same reasons and to the same intent as aforesaid, side tracks were constructed on said railroad at the said quarries, distant as aforesaid from any station; that thus far, the actual expense of quarrying and delivering the granite at St. Paul has exceeded the compensation agreed to be paid to this deponent therefor, and that the fulfillment of the said contract will be at a loss to the contractor and those interested as above stated, at from six to eight thousand dollars.

F. R. DELANO.

Subscribed and sworn before me this 15th day of April, 1870.

WM. A. SPENCER,
United States Commissioner District of Minnesota.

STATE OF MINNESOTA, *County of Ramsey, ss:*

George L. Becker, of St. Paul, in said county, being duly sworn, deposes and says: That he is president of the first division of the St. Paul and Pacific Railroad Company; that the branch road of said company extends from St. Paul to Sauk Rapids; that for the purpose of aiding in the development of the granite quarries recently opened near St. Cloud on said line of road, said railway company, at its own expense, constructed a side track which was not required for any other purpose, to facilitate the loading of the granite quarried there and intended for the Government building at St. Paul, and gave a special rate for the transportation of such stone as was intended for such purpose: that said rate was and is below the usual rates then and now charged by said company, the motive on the part of the railway company being to assist in the development of said quarries, with a view of ultimately increasing the business of said road. And further saith not.

GEO. L. BECKER.

Subscribed and sworn before me this 16th day of April, 1870.

[SEAL.]

JOHN H. RANDALL,
Notary Public, Ramsey County, Minnesota.

DISTRICT OF MINNESOTA, *ss:*

John Stewart, John T. Young, and Mathew Breen, of the city of St. Paul, county of Ramsey, and State of Minnesota, having been severally duly sworn, depose and say, each

for himself: That these deponents were the persons comprising the firm of Stewart & Co., who by contract dated June 1, 1868, obtained the contract to cut and dress the granite to be used in the construction of the custom-house at said St. Paul; that when the said firm bid for the said contract none of the members thereof had been in Minnesota and knew nothing of the quality of the said granite or as to the comparative difficulty of working and dressing the same, except what they were enabled to infer from a small specimen which had been sent to Washington; that after they had obtained the said contract they came to St. Paul with their employés, experimented upon the said granite and found the same to be harder and more difficult to work than they had believed it to be, or than it had been claimed to be; that it then for the first time became apparent that the said Stewart & Co. could not perform their said contract except at great pecuniary loss, and that they then seriously deliberated whether they would not be compelled to give it up; that the Minnesota Granite Company, and those interested therein, then stated to the said Stewart & Co. that if the said company was desirous to introduce the said granite and bring it into notice and use, and believing as they stated that the granite would become more tractable and work softer when taken from greater depth, as it would be in the progress of opening and working the quarries, endeavored to induce the said firm to proceed in the performance of their said contract, and to that end promised said firm to indemnify it against loss in the performance thereof; that the said firm did therefore proceed for awhile and worked at a loss, as they had anticipated, and the said company did pay to them the amount of their aforesaid loss; that at or about this time Congress enacted the law commonly called the eight-hour law, which disarranged the reasonable calculations of the said firm in the premises, and its arrangements theretofore made; and it being obliged, in consequence of such law, to pay what had theretofore been a day's full wages for eight hours' work, and the contract becoming, for these reasons, still more onerous, the said firm were compelled to abandon the same, which they did without any inducement, procurement, or connivance thereto by the said Granite Company, or any person connected therewith, or acting for it, but purely of their own motion; that after the said contract was so abandoned the said Stewart & Co., and their hands, were employed on the said work by the United States; that there were then, as they, the deponents, are informed and believe, no other granite cutters to be procured in the West; that while the said firm was doing said work and while the Government was carrying on the same, and ever since, the said Stewart, the deponent, has been the foreman thereon, and has had the direct superintendence thereof, and that while working under its said contract, and also while working for the Government in the premises, and ever since, the said firm and its employés have worked faithfully and diligently in the premises; that at all times as much work has been done and done as faithfully and as well as when the same was done by days' work, and that in the respects abovementioned there has been no difference in the amount and quality of the work done; that neither A. H. Wilder, or any other person, ever directly or indirectly endeavored to influence or in any manner advised or connived or interfered to induce the said firm or either of the members thereof or these deponents to increase the cost of cutting when done by the days' work, or to insufficiently or inadequately perform any labor or duty in the premises, or to abandon the said contract; that soon after the contract for the said work was awarded to A. H. Wilder these deponents, and the employés of the said firm of Stewart & Co., were employed by him in the premises as workmen.

JOHN STEWART.
JOHN T. YOUNG.
MATHIAS BREEN.

Subscribed and sworn before me this 14th day of April, 1870.

WM. A. SPENCER.
United States Commissioner, District of Minnesota.

DISTRICT OF MINNESOTA, *ss:*

John Fitzgerald, Thomas Douglas, Frank McGuire, and Edward Doulin, having been duly sworn severally, depose and say, each for himself, that they at present reside in St. Paul, in the county of Ramsey and State of Minnesota; that they are granite cutters by occupation; that they have been employed in cutting and dressing granite for the construction of the custom-house at said St. Paul ever since such cutting commenced; that they were so employed by Stewart & Co., afterward by the United States, and afterward by A. H. Wilder; that while working under the said firm, and for the Government, and ever since, the said work, day by day, has been faithfully done; that at all times, whether the same has been done by days' work or otherwise, the work has been faithfully and diligently done, and that there has been no difference, day by day, in the amount and quality of said work, whether done by the day or under any of the contracts.

JOHN FITZGERALD,
FRANK McGUIRE,
EDWARD DOULIN,
THOMAS DOUGLAS.

Subscribed and sworn to before me, April 15, 1870.

WM. A. SPENCER,
United States Commissioner, &c., District of Minnesota.

DISTRICT OF MINNESOTA, *ss:*

James H. Place, of St. Paul, in he county of Ramsey and State of Minnesota, having been duly sworn, says that he is an architect; that he has been employed in and about the construction of the custom-house at St. Paul, Minnesota, ever since work was commenced thereon; that every month since that time he has measured the granite work which has been cut and dressed therefor; that the said work, day by day, has been well and faithfully done at all times and by all parties so doing the same; that at all times, whether the same has been done by days' work or by contract, the said work has been faithfully and diligently done, and that there has been no difference, day by day, in the amount or quality of said work, whether done by the day or under any of the contracts, to the knowledge and belief of this deponent.

JAMES H. PLACE.

Subscribed and sworn to before me, this 13th day of April, 1870.

WM. A. SPENCER,
United States Commissioner, District of Minnesota.

WASHINGTON, *April* 21, 1870.

A. H. WILDER sworn and examined.

By Mr. ELA:

Question. Mr. Wilder, we have called upon you to ask of you a statement in reference to your connection with the custom-house and post office building at St. Paul.—Answer. Let me suggest to you that I am utterly ignorant of the points to which you wish me to refer; if you will suggest to me what those points are, I shall know better how to proceed.

Mr. ELA explained to the witness the allegations that had been made in reference to extravagant expenditures in connection with the custom-house and post office building at St. Paul.

WITNESS. I am president of the Minnesota Granite Company, the owners of the granite being used in the custom-house at St. Paul. That granite is furnished under a contract made by the Department with Mr. Delano. Mr. Delano is a stockholder in the Minnesota Granite Company. The contract is carried out for the company, but in his name as an individual, thinking it would be better so than in the name of the company.

Q. Is the Minnesota Granite Company an incorporated company?—A. It is.

Q. What is the amount of its capital stock?—A. Fifteen thousand dollars; about thirteen thousand being paid in. There are only fifteen or twenty stockholders in all; the shares are $50 each; I believe no one of the stockholders own over $400 of stock. When the company started, their purpose was simply to determine whether we had granite there or not, finding out that our St Paul limestone was not so durable as was at first supposed. Our purpose was to do all that we could to develope our own town and the country around us. When the Government came to want granite, and I think after they had decided to build a custom-house, we proposed to furnish granite. I do not think myself that any advertisement for proposals for granite was ever published, though an advertisement for proposals for granite cutting was. I did not suppose, and I think people generally did not suppose, that anybody in Minnesota could furnish granite, except our Granite Company, for the reason that the land on which the granite quarry was situated was owned by the Granite Company and Mr. Delano. Mr. Delano at first owned the land, and the Granite Company bought a portion of it from him, and the railroad, of which Mr. Delano is superintendent, runs across the quarry. Everybody in that country knows that no man could furnish granite at all except over that railroad.

Q. Why not?—A. Because if the railroad company would have carried granite at all, they would have charged 50 cents per hundred pounds for carrying it from the granite quarry to St. Paul. But Mr. Delano and two other members of the railroad company were stockholders in the Granite Company also. These gentlemen were very anxious to have the quarry developed; if it proved a success, it would make business for the railroad. So they said they would make the rate of transportation very low. I have been Government contractor for some years for the transportation of military stores; I am now contractor in our department; the military department turns over the stores at St. Paul; we receipt for them there; we pay 50 cents a hundred pounds for their transportation on this road; the government refunds to us that. The year before they advertised, and had to pay 57 cents. They make no classifications on this road; they charge as much for a ton of iron as for a ton of dry-goods. As there is no means of getting this granite to St. Paul except by this road, the company can dictate their own terms; if they choose to charge less than the regular tariff rate to anybody, the person so accommodated may count himself very fortunate. As I said, the capital stock of the company was $15,000—$13,000 paid in: with that money we paid Delano $5,500 for the quarry land; we have used up all of our capital in furnishing this granite; we have also used up what little profit we have made since the contract for granite came into our hands, and we are still in debt between $4,000 and $5,000. In other words, we invested $13,000 in our quarry; we have paid Delano $5,500, we have

used up $7,500; so, if we should stop to-day we must have lost, up to this time, $15,000: we have sunk our capital, put in our profits, and have not enough on hand to get us out of debt. Just about $15,000 is what we have lost. Of course, there was some expense in opening; but we have sold but little granite except what was sold for the custom-house.

Q Do I understand you to say that the profits of cutting the granite went into balance the losses of the Granite Company?—A. Yes, sir, up to the 1st day of November. The contract for cutting granite was taken in my name, individually, in April or May, 1869; but, although in my name, it was for the benefit of the Granite Company, and the profits of the contract went to pay the losses of the granite quarry.

By Mr. GRISWOLD:

Q. Then both your contracts were virtually for the Granite Company?—A. Yes, sir.

Q. The one in Mr. Delano's name, the other in your name?—A. Yes, sir.

Q. Then the Granite Company practically has both contracts?—A. It did until the 1st of November, when the Granite Company came together and decided that they did not care to have the contract for cutting run for them any longer. Since then I have been cutting the granite upon my own account individually. I have paid the workmen for cutting it, and the Government owe me for the money thus advanced. From November until now I have simply charged what I have paid out. When that is refunded, if you will allow me my salary, I should be about 10 per cent. ahead; I think not to exceed that. The last month preceding the 1st April, I think I was something like $300 ahead: the month before that I lost $150; the two months previous to that I made a little something that would help me out. Some work pays very well; some descriptions of cutting afford no profit at all, but on the contrary it costs more to cut it than I get for it. In the winter I contracted to furnish granite for the normal school building of St. Cloud. From the quarry to the place where that building is to be put up is about two miles.

Q. Is that upon the railroad?—A. It is not exactly upon the railroad. I think the stone will be hauled from the quarry to the building by teams; it will be easier than hauling it from the quarry to the railroad, loading it upon the cars, unloading it at the depot at St. Cloud, and hauling it from the depot to the normal school. Newson and others proposed to furnish granite for that building. By the way, mind you, Newson has no granite quarry open. But the St. Cloud people came to me and I contracted to furnish them granite at 70 cents per foot at the quarry. The Government pays 65 cents per foot, delivered at the custom-house. The company have furnished the refuse granite for the lower walls of the St. Cloud building, and have received payment for the same.

Q. How much do they pay for it?—A. I forgot how much.

Q. Has the company a contract with them?—A. Yes, sir.

Q. Has any appropriation been made for that normal school building?—A. There has been an appropriation but not sufficient to complete it; another appropriation has been asked for, and will undoubtedly be granted. We have a contract, signed and sealed, and binding, and they intend to go on with the building, with granite furnished by us, as soon as they get the money. The contract is not annulled; it is simply suspended.

At the time this contract was let to Mr. Delano, Mr. Newson's quarry was at least seven miles from the terminus of the railroad—from the present end of the railroad. Of course he would have to haul that granite seven or eight miles by team before striking the railroad. I pay for an ox-team and man per day, from $3 to $4; $3 50 per day is a fair average for an ox-team and man, and twelve and a half miles a day is a fair day's work for an ox-team; that is what the Government requires its teams to make.

Q. But in hauling this stone they go light one way?—A. Yes, sir; I think fifteen miles a day is about what each team would do; a team could make just about a trip a day. Certainly a team could not be loaded, driven to the railroad, unloaded, and driven back to the quarry in less than a day. And 2,000 pounds would be a good load—all we would want to put upon our teams. So you could calculate pretty nearly the expense of getting a ton of his granite to the railroad. From the railroad down, if he was charged the regular rates, he would have to pay 50 cents per hundred pounds; but suppose he paid only 25 cents per hundred; a foot of granite weights 180 pounds; that would make the expense of transportation from the end of the railroad to St. Paul, 45 cents per foot. On reaching St. Paul, we have to unload our own cars, and our own teams haul the granite to the custom-house site.

Q. But suppose the matter was placed before the railroad company in this light: Here is a large amount of granite to be transported; it is an article that is very heavy in proportion to its bulk; will you transport that granite for $2 a ton?—A. They would not do it for that. We were asked to make proposals for a bridge at St. Louis, and for furnishing granite for the stone-work of the Rock Island bridge; several applications have been made to us to bring our granite down the Mississippi River. We asked them to give us their lowest possible rates; but they offered us no such rates as we have been getting on this granite for the St. Paul custom-house; so we could not furnish it.

By Mr. ELA:

Q. Does the railroad charge for transportation according to the weight in pounds, or do they calculate so many feet to the ton?—A. They carry it by the car load, calling a car-load 10 tons, and we load and unload

Q. What do you pay for the transportation of a car-load of 10 tons?—A. Fifteen dollars, sir.

Q. A dollar and a half a ton?—A. Yes, sir; and we have not paid the railroad company yet. The railroad company have declined to transport any more for such prices.

Q. Do you call a ton a fair load for an ox-team?—A. Yes, sir; that is all an ox-team can draw. We work from 100 to 500 ox-teams the season through, and we expect our teams to haul from 1,800 to 2,000 pounds.

Q. Do you have poor roads out there?—A. No, sir; our prairie roads are generally as smooth and as hard as a floor.

Q. But you do not work a single ox-team alone?—A. Certainly.

Q. You ought to get some more Yankees out into that country, to show you how to manage with oxen.—A. We have tried the experiment of working two or three teams to a wagon; but taking all things into account, did not find it profitable. When actually on the road, going any distance, we have one man manage two or three teams.

Q. Is not your object in using only one pair of cattle to a wagon for the purpose of doubling teams when you come to bad places, so that you will not have to load and unload, and so lose time?—A. Yes, sir, in part; but we do not believe it is policy to overload our teams, so as to have to double; that takes time, too; we seldom do it in our country. I have been giving you the prices of ox-teams only; for horse-teams—a span of horses, a wagon, and a man, we have to pay $5 per day.

Q. What was the object of your company refusing to carry on the cutting contract, if it was assisting in paying the losses on the contract for furnishing granite?—A. Your appropriation run out, and it became a question whether we were obliged to go on or not; I think we were not obliged to. Still, we have a little local pride; we, of St. Paul, want our custom-house built.

Q. But if cutting was a paying operation, why quit it, even if you were not compelled to under the contract?—A. It takes $5,000 or $6,000 a month to pay the men who do the cutting; since the 1st of October I have advanced the money myself; the last money the Government sent out there was in October. The company did not care to advance the money and continue the cutting; I thought I could do it and make perhaps ten per cent. above my own compensation.

Q. What do you allow yourself for your own compensation?—A. I have not yet charged anything at all, but I think I could not give my attention to the matter for less than $3,000 per year; when we are through, if there is margin enough of profit left so that I can charge that, I do not think it would be anything out of the way for me to do so. Our company, had they been willing to advance the money necessary to pay the workmen, would still have had the profits as before; but when the appropriation ran out they said they didn't believe there was enough in it to make it worth while for them to advance the money to pay for the labor. How I will come out I do not know; I have told you how I have come out during the four months past.

Q. You made a bid, or proposition, once, did you not, at a rate lower than the present contract?—A. No, sir; I sent on a bid, but it was at a higher rate, I think.

Q. Are you sure it was not at a lower rate?—A. My impression is that it was at a higher rate; it was a year ago last December, I think, that I made a proposition to Mr. Mullett; but he told me there was no money, and he could not entertain it. Afterward I submitted two or three propositions to Mr. Knight; the first bid I made here in Washington myself.

Q. Was that bid made after consultation with the men who cut the granite?—A. No, sir. Since I have been there, I have been around and watched the men where they were working.

Q. Did you have any consultation with the old contractors with regard to the cost of cutting granite?—A. I was around when they were at work, and learned what it was costing. When the contractors first came up there, they went up to the quarry and examined it; they tried some of the stone; they said it was much harder than they had supposed, and that they did not believe they could go on with the contract; they wanted to come away then, and abandon the whole thing. The Granite Company felt as though they could not afford to have those men go back and report against the granite; that would have been the end of the quarry. When they found that they could not do the work for the price named they tried all manner of excuses to get away. The Granite Company held a meeting, and told Stewart & Co., that if they would remain and go on with the work, the company would give them $3,000 of their stock—a thousand dollars apiece, of paid up stock. Well, they then went on for three months, nearly; but finally abandoned the work. After that, the work was carried on by the day, until the contract was finally awarded to me. I never interfered with any man's cutting. I think they are working no harder for me than they did when they were working for themselves. Mr. Stewart, a Scotchman, was foreman then, and is my foreman now; he is a strictly honest and reliable man. The granite-cutters themselves do not know who they are working for; they never knew that the contract had been transferred to me.

By Mr. GRISWOLD:

Q. Your company agreed to give each of the original contractors a $1,000 worth of stock of the Granite Company. I understand that this was intended as an inducement to them to

use the granite?—A. Yes, sir; they were going to abandon it after they had been there but two or three weeks.

Q. Then you did not have to give them the stock?—A. We did give them the stock, and they hold it now. Another thing—your eight-hour law went into operation about that time, and they lost two hours a day of labor. The prices were not reduced; they had to pay as much money for eight hours' work as for ten hours' work. I am now paying granite-cutters $4 50 per day.

Q. It seems to me that is a pretty high price.—A. It may seem so, but nevertheless three of them quit work only a day or two before I came here; they are eastern men. I should have stopped granite-cutting last fall, had not the granite-cutters belonged east. Mr Knight urged me to keep on at work during the winter, so as to have the stone ready in the spring, that there might not be any delay. I consented to do so, but should not, had not the granite-cutters said that if they left work and went home they should not come back again for the short time the contract would last.

By Mr. ELA:

Q. Do they work for you eight, or ten, hours for a day's work?—A. Eight hours, sir. They dictate terms in every respect. I made every effort east, but could get no man who would go so great a distance for so short a time. So far as any tampering with the men is concerned, nothing of the sort has ever transpired.

Q. Was there any delay in furnishing the rough granite?—A. No, sir; only in the cutting.

(Mr. KNIGHT. We did have difficulty in getting rough granite when we first started.)

Q. There has been no difficulty in getting rough granite since the commencement?—A. No, sir. At the commencement we had no men in the quarry who understood how to work granite. I have seen enough of the business to know that our limestone men know nothing about the handling of granite.

Q. Are you acquainted with the limestone business?—A. Not particularly; I have been around where it was done, and seen what was going on.

Q. What is the value of limestone per foot, when quarried in St. Paul?—A. Oh, I could not give you any correct information upon that point. I have forgotten, if I ever knew. I want to tell you one thing in regard to Mr. Newson. He is an eccentric man; sometimes we call him a little crazy. I believe his granite speculation was at first a speculation for gold and silver. He thought that silver could be found under the granite rock. He came to me last fall and wanted a contract for dressing granite. He said he could save me 40 or 50 per cent. I told him that I would certainly be very happy to let him have the contract; that I did not care whom I employed; and asked him if he could hire stone-cutters at a less price than myself. He said he had a patent for a machine for dressing granite. I asked him if he had the machine made. He said no, but he had a model. I told him to get his machine ready, and I would let him go to work. He said he could not build his machine unless I would help him. I declined to build the machine for him, unless he could give me security. He asked me to build the machine, I suppose, because I had a machine-shop and foundery. He never has been able to give security, although he has been to see me two or three times about it; consequently he has not had his machine built. He felt very much put out because I would not take the risk of building the machine and taking my pay out of the cutting after he had proved the machine would work. But I did not feel like risking the expense of building the machine on its success afterward. I never heard of a machine for that kind of work that did not make the cost more than it would have been to have been done by hand. He expresses himself very much annoyed because the granite was not advertised for. The editor of the Dispatch says he does not complain at all of the price, but simply because bids were not advertised for. This whole fight has been carried on by Mr. Newson, through the Dispatch. If there is anything that you want to know in regard to the company's books, or any point upon which you wish statements made based upon them, I could give them to you. I would like to state—I do not know how broad the charges are—but I understand that it is charged that Mr. Wheelock was interested in the Granite Company and in the cutting of the stone. I simply want to say that Mr. Wheelock had no interest in the cutting, except that he has $400 of the stock of the Granite Company. I speak of this because I see it is in our home papers; the Dispatch charges Wheelock and others with being interested in this contract.

Mr. GRISWOLD. Who is Wheelock?

WITNESS. Editor of the St. Paul Press. The fact is, in pitching into the Press they think they are punishing Senator Ramsey. It is entirely a political and personal fight, and not because they think they are paying any more for the granite or for the work than it is worth.

WASHINGTON, *April* 21, 1870.

WILLIAM A. SPENCER sworn and examined.

By Mr. ELA:

Question. What is your position?—Answer. I am treasurer of the Minnesota Granite Company.

By Mr. GRISWOLD:

Q. How long have you been treasurer?—A. Since the organization of the company.

Q. When was it organized?—A. I do not remember—the papers will show. It was some time before the Government commenced to build this custom-house; not long before. We had been talking about opening that quarry for the purpose of using the stone for building purposes at St. Paul, if it should prove to be good. We had bought the land upon which it was situated of Mr. Delano, on what we considered to be favorable terms. We organized with a capital stock of $15,000; $13,000 paid in. We did not open the quarry to make money, but only as an experiment. I can corroborate Mr. Wilder's statement in regard to the Granite Company losing money on the gontract, and being still in debt to the workmen. At the meeting, of which Mr. Wilder has spoken, in November, which passed that resolution, there was quite a full representation; nearly all those who had paid in were represented at the meeting. The most of them had taken $400 of stock, and some of us had given the original contractors a hundred dollars to encourage them to proceed and not give up the work. Our mayor then and there offered to sell his stock for $200. We were going to abandon the contract entirely as a company——

Q. The cutting?—A. And the other, too; because there was no appropriation, we thought we had a right to abandon it, under the circumstances. So we concluded to lose our $400, and sell our granite lands to pay off our indebtedness.

Q. But the cutting part is paying 10 per cent., I understand?—A. I do not know.

By Mr. ELA:

Q. How much have you received from the job as profits?—A. I have not looked at the books since last November.

Q. Can you take a book and tell us?—A. The books are not here; I will have them brought here if you wish it.

By Mr. GRISWOLD:

Q. It was understood that the granite cutting was paying something last November?—A. Yes, sir.

Q. It was also understood that the furnishing of the stone was a losing business?—A. Yes, sir.

Q. Then you sold out the paying part of the business and retained that on which you were losing money?—A. It was paying then, for we had an appropriation, but when the appropriation gave out, and we got no more money, we were running in debt.

Q. And is the company now furnishing this stone at a loss?—A. Yes, sir, dating from the commencement; it cost a great deal to open the quarry.

By Mr. ELA:

Q. How much did it cost to open the quarry; to get at rock that was acceptable and desirable?—A. Well, it cost a great deal; it cost more than it ought to. We had a foreman and superintendent who claimed to be familiar with granite quarrying, but who proved to be a very inefficient man, and did not begin to do the work that was expected of him.

Q. The loss, then, was mostly in the opening of the quarry?—A. The principal amount of it, I suppose, was.

By Mr. GRISWOLD:

Q. Your loss, then, according to that, is decreasing all the time?—A. Not now; we are not interested in the cutting as a company.

Q. But you say that your principal expense was in the opening of the quarry?—A. Yes, sir.

Q. That was work for which you got nothing back for the time being?—A. Yes, sir.

Q. But when the company came to take out stone you began to get your money back?—A. Yes, sir; but we did not do it, for any member of the company will now sell the stock for anything they can get; several members have sold out their $400 of stock for $200.

Q. Why should they sell it, if, now that the quarry is fairly opened, they are getting their money back?—A. The amount of granite yet to be furnished is comparatively small, and they will not begin to get back the original cost of their stock from any profits that can be made from that quarter.

Q. What amount of granite has been furnished to the Government?—A. The Treasury Department has it all.

Q. How much did it cost to open the quarry?—A. I should say, in round numbers, about $8,000, before we got to satisfactory rock. Our only profit consists in the quarry lands opened and ready for use. In other words, if the Government got their rock for the custom-house at $15,000, that will not pay us by considerable for what we have expended, and must expend for it, by the time the amount of granite needed shall be furnished.

Q. Well, is it not worth $8,000 to have the quarry opened?—A. It would be if it was going to be used, but I never have heard of any call for it, except this one proposition for building the normal school-house.

By Mr. ELA:

Q. What is the cost per foot of quarrying the stone you are now furnishing the Government?—A. I cannot tell; the superintendent could tell you that. I only know what the treasurer's books show; they give the amounts received and paid out.

Q. Do your books show what the cost for quarrying is?—A. I think not; we employ the men by the day. We can only arrive at it, approximately, by finding the gross receipts and gross expenses, and dividing that by the number of feet of granite quarried out.

WASHINGTON, *April* 15, 1870.

WILLIAM L. BURT sworn and examined.

By Mr. CHURCHILL:

Question. What is your position?—Answer. I am postmaster at Boston, having charge of the public buildings in that city; also disbursing agent of the Treasury Department for the new post office and sub-treasury building in Boston.

Q. You have had charge of the building since the commencement?—A. Yes; sir; I purchased the land on which the building is erected.

Q. How long have you been postmaster in Boston?—A. Four years.

Q. What attention have you given to the subject of a proper construction of post office buildings?—A. I have given the subject a great deal of attention. I have examined all the post offices constructed by the Government in the United States, with but one or two small exceptions; I have examined the post office buildings in New Orleans, Cincinnati, St. Louis, Chicago, Philadelphia, Baltimore, Buffalo, Cleveland, and Detroit, and examined their plans very carefully, with a view of comparing them with the plans of the office I had made; I also examined the plans of the leading post offices in Europe, including the large London office and the offices in Paris and Berlin. I was determined to secure the best possible plan for the post office.

Q. Did you visit those buildings in Europe?—A. No, sir; but I obtained, through the Government, the plans of those buildings. I reduced all these plans to a similar scale, so as to be able to compare them carefully. The London office is a general government office, just as your Post Office building (in Washington) covers both the city post office and the Post Office Department of the Government. I wanted to avoid two great difficulties, which are found in nearly all large post offices; I wanted to arrange it so that the public could have free access to the post office, and at the same time see to it that the light was not cut off from the apartments on the inside. In our office we had to burn gas Sunday and holidays day and night. On a day as bright as this no portion of the office can be used without gas. Not only is this a great inconvenience, but the gas burns out the life of the air, rendering it very unwholesome. There has been more sickness and death in the New York post office and my own office than in any other branch of the Government service. In the New York post office the workmen are compelled to remain there only from 9 until 4. Our office is kept open day and night. Our employés are divided into three classes, each working eight hours, thus occupying the entire twenty-four hours of the day, including holidays and Sundays, except church hours on Sunday. The office closes at 10 Sunday morning, and remains closed until 4 in the afternoon, being left in charge of a watchman. There seems to have been no attention paid by the Government to the matter of the construction of post office buildings. There is not a remark in a single public document on the subject that I can find. It seems to have been taken for granted that buildings of this kind should be erected more for architecture than for use. Chicago has one of the best post office buildings in the United States; yet, with all the expense put upon it, it is utterly worthless as an office. The post offices in St. Louis and Cincinnati ought to be torn down. I have made a careful examination, and am satisfied that the Government gets no benefit from either of them, compared with the expenditure. In Chicago the outer arrangements are good; three sides are appropriated to the public. But the inside portion, used for the post office, is entirely cut off from light and air; only about one-third of the room on that floor is available for post office purposes, and that is back from the light. There is a court 14 feet wide on three sides of it, the post office portion being, as it were, a box inside of another box. No sensible man would build a barn in that way. And there two hundred men have to do their work. The St. Louis post office is even worse than that. The general plan of the Government offices has been in that style. In our new building in Boston we are endeavoring both to accommodate the public and to give ourselves light and air from the outside. In order to accomplish this, my plan was to make the first story a sort of double story; that is, to make it 30 feet high, building about it an archway 12 feet high for the public. This archway would extend upward not quite half the full height of the entire story; above it would be windows 15 feet high extending around the building, letting in the light and air directly from the outside. This plan involves that corridor passing entirely around the building, (referring to the drawings of the post office building;) on that corridor are desks from which the head clerk, the clerk of the money order department, and the clerks of the other departments, can see every man at work in the office. The postmaster can pass entirely around that corridor, communicating with his head clerks, without going among the men at work in the office. It is somewhat after the style of the dead-letter office here, where any person above can over-

look the table below. By this means all the space is utilized, the public have free access to the post office, and free admission of light and air is given to the room. It involves no increased cost, and improves the appearance of the building rather than otherwise. In the next place I found these offices, especially the continental offices, all cut up into little rooms. Every man is in a little room by himself, and there either does his duty or fails to do it, with no one to keep an eye upon him. Our office is constructed without partition or break, 250 feet long and over 115 feet wide, uninterrupted except by light iron columns. By this arrangement there is a free circulation of air, and the entire building can be looked over at a glance. This makes the whole office a guard over the whole office. The office is also more easily heated; this is a matter of considerable importance, especially in buildings in a northern climate. Another thing—you can ventilate a large room more efficiently than you can several small ones. A large room properly heated can be kept at a mean average temperature with much less trouble than several small ones, and can be managed by one man, while in the other case a large number are necessary. The plans for this office were prepared by our own architect, and at our own expense. Those plans were then brought here and placed before the Government.

Q. Did you examine the plan of the New York post office, as got up by the five New York architects?—A. Yes, sir; I went to New York with Governor Andrew, of Massachusetts, who was on the commission for our post office, and made a full examination of those plans there. The result of my examination of those plans, (not to criticise anybody,) was not favorable; especially with regard to the points which I have mentioned, and all of which I consider of more importance than the mere architectural beauty of the building. The work of the post office is done on the lower floor, the rooms above get light and air, but those on the lower floor do not. There is one redeeming feature in connection with the New York post office. The first intention was to put the building fully out to the line of the land owned by the Government. It was claimed that the space on the north side would remain permanently unoccupied, so that the Government would be sure of 250 or 275 feet perpetually open to the light and air. This would be so if the government of the State or city of New York should give that ground to the United States Government, or give a pledge which there would be no possibility of repealing, that it should never be used for other purposes. But the Government had no rights in relation to the matter; and on my second or third trip to New York, after seeing A. T. Stewart, I went and saw Mayor Hall, and he agreed with me that it would be better to set the building back so as to have a public plaza, that people coming to the office might not be run over. People coming in on the horse-cars, as thousands daily do, have to cross Broadway, up and down which a continuous line of carriages is passing. In order to accommodate the people it was necessary to give them some space on the post office side. When the time arrived for commencing the building, the question arose whether to use the old plan, or adopt the new one. Mr. Mullett, in conversation about the matter with me, told me that unless the State and city of New York gave him the land he required he was satisfied it would some day compel the United States to pay an exorbitant price for it; in fact, that there was some such scheme actually in the wind in relation to it.

Q. That building was not put up on the line eventually?—A. No, sir. The rear wall is not up at all yet; but the plans for the building bring it out 24 feet from the line of the park, so as to leave a space in the rear 24 feet wide under the control of the Government. This 24 feet is not lost for the purposes of the post office, except for that portion of the building above; and there, they seemed to think, they will have room enough without it. The 24 feet saved for the use of mail-wagons, and by and by when the Hudson River, Harlem and Boston roads bring their cars into the same depot all together, the plan is to bring the postal-cars directly into this area—practically, into the building—without change; so they can put the mails in and begin work in the postal-car before leaving the city, in fact, while the car is still within the post office building. The additional expense will be a mere trifle.

By the CHAIRMAN:

Q. According to these five plans, this carriage-way was in the body of the building itself?—A Yes, sir; the carriage-way was trussed over, and the body of the building put up above it.

Q. Is that not the way in the plan you now speak of?—A. No, sir; the building is carried up solid, and the passage-way comes outside, covered by a projecting screen, that looks like a balustrade. I will say that the present plan and the former plan make very little difference as to post office room. The mails come in and are delivered into the basement; the basement flight is used for the receipt and discharge of mails; the city post office is on the floor above. The drive-ways are made on a descending grade, terminating in the basement. The mails ought not to be received and discharged in the same part of the building where the city post office work is done. We are to do all this in the basement rooms: the mails which are not to be distributed in the city never go up to daylight. We frequently take in from fifteen to twenty-five tons of mail matter a day. On the floor above, by Mr. Mullett's arrangement, there is by actual calculation as many superficial feet of space for post office purposes as under the old arrangement, the building being constructed with reference to post office wants, and not simply with reference to architecture. As it was before, the only way in which the architecture of the building was made to conform to these wants as a

post office was in the addition of an immense truss to drive under, and have that truss carry the 115 feet of building above. So far as the rest of the building was concerned, it might as well have been built for a warehouse or a store, and the truss did not accomplish anything that could not have been accomplished in some other way and with less expense. The actual gain by Mr. Mullett's plan is upward of 10,000 feet. Mr. A. T. Stewart, who is a very practical man—a perfect marvel of a man for minutiæ—he strongly opposed the former plan; he said the Government could not afford to make any such experiment. He showed that the cost of the plan increased in mathematical ratio by every foot; and the insecurity was so great an objection that he would not build in that way even if it cost no more. But the expense would have been enormous.

Q. What would have been the additional expense?—A. I cannot say; there is no such truss in any public building in the United States. As the length of the truss increases, the insecurity increases very rapidly. It is not so much that there is danger of its breaking as that there is no way to control its warping; the instant you get a strain upon it, it warps laterally. You will understand that by reference to a long board set up on edge with the ends supported; a weight placed upon its center would not break it by direct downward pressure, but would cause it to spring or warp in a lateral direction.

Q. But what is the necessity of having this truss?—A. I confess I do not see the necessity myself. I do not think the architects ought to be charged with it. In talking with one or two of them, I think they expressed themselves to the effect that this part of the plan was none of theirs; that they put it in because they were required to. I understand the idea came from the postmaster of New York. When we began our building in Boston, I had plans and estimates made at home. On coming here and talking with Senators Sumner and Wilson, I told them that it seemed to me we had better meet this matter squarely and have our estimates made beforehand. They said, by all means; and so it was done. We asked no appropriation until the plans were completed. We, in Boston, were in an embarrassing and unpleasant position; we were simply tenants at will; we were in as bad a condition for lack of a post office as they were in New York—and that is as bad as can be. I consulted with our Senators from time to time; I went to Mr. Muilett and asked him, as a request from our Senators, that full estimates for the construction of our building should be laid before the Secretary of the Treasury and communicated to Congress before a dollar was expended. Estimates were made for the entire building, and put upon the books of the Department; we never asked a dollar until that was done. In my opinion, all our public buildings should be built in that way. This plan of making an appropriation of $50,000 or $25,000 to commence a building that is to cost a million or a million and a half of doilars, is, in my opinion, the worst possible policy. In that way the departments shirk the responsibility of the heavy expense of putting up these buildings. I say, let everything be clearly understood from the start. Our building is the only one I know of in the United States whose projectors were willing to face Congress squarely and tell exactly what they wanted. Having made these estimates, the appropriation for the purchase of the land was made, and the land bought. The next appropriation was not for the building itself, but for the basement of the building—to bring it up to a level with the sidewalk. Our expenditures thus far have come considerably inside of our estimates, for prices are not as high now as when our estimates were made; we have $38,000 left of an appropriation of $200,000. We have kept a full account of our work; there has not been a day but what we have known exactly where we were.

By the CHAIRMAN:

Q. How is the work done; by contract or by the day?—A. The work is done in this way: we require various things; for instance, we required iron for the completion of our iron work. We invited bids for that iron work; when the day arrived the bids were opened; they were found to range from 3½ to 5½ cents per pound. The result was we obtained iron at 3½ cents per pound, delivered on the spot, the contractor furnishing patterns and all transportation. We made a great saving in our wrought-iron work in the same way. We advertised for each thing separately—lime, sand, cement, &c.

Q. What was your lowest bid for cement?—A. Our lowest bid for cement was $2 40. I found out that a competition had been entered into to obtain excessive prices, and I rejected all the bids. After the bids were rejected, verbal offers were made me by some of the very parties who had made these bids, to furnish cement at less rates. I eventually procured it at $1 95. We have had nearly the same trouble with regard to everything that has been wanted; and the same controversy by each man who bid being disaffected, and afterward making all sorts of complaints. We had the same trouble about granite. I said to each quarryman, if you think we are being imposed upon, you will do us a great favor if you will go to these men and keep a good watch upon them, and see that they do not cheat us. I said to all, you can see each bid, each offer, every man's name. A man says, "I want to furnish gas pipe;" I take down his name, and whenever that portion of the work is advertised he receives a notice from my hands. I began under the eight-hour law, but refused to pay a full day's wages, except for ten hours' work; I refused for one month, when I received an order from the Government to increase the pay one-fifth. Under these instructions I gave this pay, additional for the preceding month, to men who had no idea of getting the

money. Our contracts are the lowest in the United States. Our granite could be taken up and shipped to New York, and still make a saving of 10 per cent. on the price now paid for granite there.

Q. What do you pay for granite?—A. We pay 39¾ cents per foot, quarried and delivered on our site, for the foundation. We pay in addition to that, for bankage and wharfage, what amounts to about 3 cents more, making in all about 43 cents for foundation stone.

Q. Does that 43 cents cover the price for all sizes?—A. For all foundation stone; the provision for increase of price does not apply to foundation stone at all. Over half the stone used in the foundation are very large, but we pay nothing extra on account of it. Nothing extra is paid by the Government for stone of extra size, excepting such as are specially ordered and shown on the architectural plans. A contractor cannot charge extra for stone of extra size furnished, simply because it is his whim to do so; they must be furnished to supply an architectural want, and in pursuance of a direct order of the Government.

Q. What is meant by bankage?—A. That is what a stone is worth as it lies in the bank; that goes to the owner of the soil.

Q. Is the granite paid for by its measurement as it lies in the bank?—A. No, sir; we measure the granite in the wall after it is laid.

Q. Then you do not pay for what is wasted in the cutting?—A. No, sir; the waste is not measured; the stone in the wall is the stone we pay for.

Q. If you make a calculation of the quantity of stone in a given space, say a hundred cubic feet, and then quarry out the stone, will the quantity quarried out measure a hundred feet?—A. O, no; you will strike seams, and discolored portions, and stone that will not split free; and the waste stone amounts to almost as much as the good stone.

Q. Then about 50 per cent. of what is taken out of the quarry is waste?—A. It varies much; in some quarries all of 50 per cent.; in others the waste is almost nothing.

Q. Do the quarrymen measure the stone?—A. No, sir; they have nothing to do with it; they are not allowed to be present when the measurement is made.

Q. By whom is the stone measured?—A. By the surveyor of the city of Boston, Mr. Davis. I made a request of the Government, that during the construction of this building, Mr. Davis should be permitted to make the measurements, and to keep them himself, and to let no one else see them. The surveyor, the superintendent, and myself, are the only persons who know anything about them.

Q. Will you please explain about this increase of price one cent a foot for all stone containing over 20 cubic feet?—A. I presume you suppose that if a block measures one foot over the 20 cubic feet, the price will be one cent additional only upon that extra foot. This is not so; the extra cent applies to every cubic foot in the block, making upon a block of 21 cubic feet an addition of 21 cents. If the block measures 25 feet, we pay 5 cents additional on each foot. This is the general rule with regard to stone in Massachusetts. The court recognizes this rule of one cent for each additional foot, to mean one cent for each cubic foot in the entire block.

Q. Is the dressing of the stone done by contract, or by days' work?—A. By days' work; the men are paid by the Government at the close of each month.

Q. And the putting together of this material?—A. That is done by the day. These stones are quarried of a certain size; every stone is cut after a pattern made by a carpenter; every stone is marked, numbered, and lettered. I have kept track of this matter so completely that I know the work done by every man upon every stone for every day in the year; I know the cost of every stone that has gone into the building.

Q. Where is the dressing done?—A. At the quarry.

Q. What allowance do you make to the contractor for doing the work?—A. Fifteen per cent. in addition to the actual expense.

Q. The entire expense of the granite?—A. No; the entire expense of the dressing; we pay for the work. The contractor is obliged to furnish a man himself, paid by himself, who takes charge of the work, lays it out, supervises the men, sees that the work is brought down from the quarry and delivered where the cutting is done.

Q. Where does your duty commence?—A. With the paying of these men.

Q. But suppose a stone is cut wrong, and comes back from the quarry to Boston, who bears the loss?—A. The workman gets his pay from the contractor, but the contractor does not get his pay from us. We actually pay the workmen, but he is made responsible for the work.

Q. The workmen, then, are his workmen?—A. In a certain sense; but they are the workmen of the Government in this way: If they were his workmen, he might pay them $10 a day, and ask us to pay 15 per cent. on that.

Q. Who has charge of that matter?—A. There is a superintendent in Boston; besides this, we have an additional man, an architect, who looks after this work; he fixes the price of the work of these men; if a man is worth $3 a day, he gets it; if $4 a day, he gets that. There was a sort of organization which claimed the right to fix the price of work, and demanded $4 a day for all the men employed upon the work; they endeavored to create dissatisfaction. But we would not pay the bills, and that soon brought them to terms. Men who are able to supervise a gang of workmen, or act in the capacity of foremen, as it were,

receive extra pay. No man has gone into the quarry who has not been paid by the Government, at a price fixed by the officer of the Government.

Q. What is the highest price paid to any man employed there?—A. Five dollars per day.

Q. Will you explain to us why it is that this 15 per cent. is paid upon the work?—A. No man in Boston would undertake a contract of that kind, except upon a basis which would assure him of at least 15 per cent. profit; more likely 25 or 30 per cent. The ordinary work of the last three years has paid even larger profits than this; at least, in making their estimates, men figure for that. I do not think you could make a contract in which the contractor would not add more than that, beyond all probable expenses.

Q. If it pleased you to receive the stone in the rough in Boston, would you have the right to do so; and could you have the stone dressed by some other party, or in any way that suited yourself?—A. Yes, sir.

Q. Which would be the the most advantageous—to have the stone delivered in the rough, and dressed in Boston, or to have it delivered and dressed as you now have it, the Government paying the additional 15 per cent.?—A. Well, you can bring that right home to your own practice. In Boston we have all the temptations of a large city. In any gang of workmen that you can get together, there are always many who, more or less given to drinking, go off on sprees, and are not fit for work for two or three days after; there are others who are disposed to make trouble among their fellow-workmen, so that with a gang of a hundred or two hundred workmen you cannot begin to get the same amount of work out of them in a city that you can with them quietly at work at a quarry, where they go and stay week after week.

Q. But suppose you run a stone-yard for the Government in the vicinity of the quarry, and have the work done by Government workmen, paying nobody any 15 per cent.?—A. As to whether it would be better to pay the 15 per cent. in the way we do or to do the work ourselves is a question I cannot answer. As for me, I can do no more than I do. I cannot go out and hunt up and hire men; if they should get up a strike I could not undertake to go and look after the matter; and there are a hundred other things that need some watchful eye and guiding hand. The man who does take upon himself all this labor and respensibility receives 15 per cent., which is intended to fairly cover his labor in connection with the position, and perhaps afford him some small profit.

Q. Do you know what the usage regarding this matter is by builders in contracts with private parties?—A. I talked with three or four men who came to Boston to testify before our committee, in reference to this part of our contract. One of these men was Mr. Patterson, of Hartford, Connecticut, the owner of a large free-stone quarry, and who has the original granite quarry at Westerloo, Rhode Island. He said that stone could not be furnished at a profit for considerably more than we are now paying; that he would not undertake the job unless he were certain of a profit of at least 25 per cent.; that in his business, taking one year with another, with all the chances in the matter of workmen, the difficulty of obtaining them at one time, and the surplus on hand at another, 25 per cent was the smallest margin of profit at which he would take a contract of that sort. Mr. Sheldon, of the Rockport Company, said the same thing. I conclude that if any one should undertake to do the work at lower figures it would be with a view to some collateral speculation that would make up the difference.

Q. The risk of transportation is with the owner of the quarry?—A. Entirely. If the vessel is lost and the cargo goes to the bottom he would get nothing.

Q. When the stone are dressed at the quarry,do you pay any insurance?—A. My impression is that there is a nominal insurance.

Q. Suppose it is not insured and should be lost—whose would be the loss?—A. Would it not be our loss, because our men did the work upon it and were paid by the day?

Q. But does not the 15 per cent. cover that?—A. I think not.

Q. He would certainly get nothing for his stone; but the question is——A. You do not accept it at the dressing shed; if you did you would pay the transportation upon it.

Q. The question is, who would lose the work done upon it by day's work; no doubt, the quarry-man loses his stone, bankage, and wharfage; but who loses the work expended upon it?—A. Well, I think we would lose that, unless it were insured.

Q. If the insurance is counted in as a part of the expenditure, the Government would have to pay 15 per cent. on the insurance?—A. Well, that would be a mere bagatelle--it would not amount to enough to pay for the writing paper the insurance policy was written on.

Q. But if the stone were to be taken to New York. then the insurance would amount to something of an item.—A. Oh, yes; but Cape Ann is right there in Boston Harbor, as you might say; the quarry is right on the ocean, close to deep water, upon which schooners can come right up to the shore and load with granite; and I do not recollect that I ever heard of a stone vessel being wrecked. Consequently, insurance is very light.

Q. How long would it take to prepare for presentation to Congress the plans and drawings of a building like that for the new post office in New York?—A. The design of a building is a very simple affair. The plan of a building goes a little further along; and when you come down to the working drawings of a building, those of the New York post office could not be prepared in six months, with all the men in this Department. When you come to arranging for every separate stone, fixing its size precisely to within half an inch, it

requires the greatest attention, and care, and calculation. It would be as impossible to furnish the present Congress with the working plans of the New York post office as for a man to fly. But plans could be made, upon which a reliable estimate could be based, in much less time. Full working drawings would not be necessary.

Q. What do you find to be the cost of dressing stone in Boston; or have you not made any estimate upon that point?—A. I know the cost of dressing every stone in every pier of the Boston post office. The cost has averaged 90 cents and a fraction per foot for dressing and putting in place.

Q. Do you mean that the stone, dressed and put in place, cost that amount?—A. No; I mean that the stone costs so much per foot delivered; then, the dressing and putting in place costs 90 cents a foot. The cost has been, I think, more than it will be hereafter. I shall be disappointed if, throughout the building, the cost of dressing and putting up the stone costs over 80 cents per foot.

Q. Then the dressing and putting up amounts to about twice the price of the stone?—A Yes, sir; and a little more. When you come to dressing for caps and sills of windows scrolls, &c., the surface measures faster than in plain work.

Q. What would you say of a piece of work in which the cost for dressing and putting together should be five or six times the cost of the stone?—A. I should want to look at the stone. Some stone is very hard to dress and get to surface. With the stone of New England you know what you can depend upon; it dresses down very nicely; but take the stone of Seneca and Cayuga Lakes, and it cannot be dressed for four times the cost of the stone; one stroke of a chisel will unexpectedly take out a chip half an inch below where you intended the surface to be, and perhaps utterly spoil the stone for the purpose designed. Our New England granite is very reliable.

By Mr. GRISWOLD, (who had not been present at the earlier portion of the examination:)

Q. I understand the superintendent gets 15 per cent.?—A. Not the superintendent; the superintendent gets $8 a day.

Q. Who gets the 15 per cent.?—A. The man who does the cutting of the stone, and the boxing and delivering it at the site. In this case it happens to be the same party who owns the quarry.

Q. A contract is made with him that he shall quarry at so much?—A. Yes, sir, quarry and deliver. He quarries and delivers for so much; then he cuts it for so much.

Q. And you pay him for the stone as measured in the building?—A. Yes, sir; nothing is paid on anything that does not go into the building.

Q. The contractor hires the workmen?—A. Yes, sir.

Q. And the Government pays them?—A. Yes, sir.

Q. And he has 15 per cent. upon the disbursements?—A. Yes, sir.

Q. Will you state in detail what the service is which he performs for that 15 per cent. which is paid him?—A. Well, suppose an order comes to-day for a certain lot of stone. A pattern is made for every stone, and placed in the workman's hands; the stone is quarried and given to the workman; it is also numbered, and lettered, and entered on a book. After that stone is laid in its place in the building, it is paid for, and not before. If the stone for any reason proves unsuitable, and does not go into the building, he gets no pay for it. The contractor also has to obtain stone-cutters, and supervise everything relating to the quarries at his own expense. He keeps the time of every man, marks the stones, makes the entry there—in the book kept for that purpose; sees that I get the same invoice that is invoiced on the vessel, and that between our agent at the quarry and our men at work in Boston we get every dollar's worth of stone and work that we pay for. Any loss or risk falls upon him, as middle man in the work. He is there at the work, on an average four days in the week himself, and his foreman is there all the time, and neither of them have any salary from us—their names are not on our pay-roll. He gets workmen there, and gets them places to stay, and a great many other things necessarily connected with the supervision of such a gang of workmen. He must see to it that work is done, or his 15 per cent would not amount to anything. This is what we give him the 15 per cent. for. If we did'nt pay it to him, we would have to pay some other man for doing it, and promptness and speed are best secured by so arranging matters that the more work is done the more pay he gets.

Q. What will be the gross amount paid for the cutting of the stone for this building?—A. I calculated that on that contract this man would get, including the 15 per cent. paid for this sort of supervision, between $30,000 and $40,000. You understand we do not pay the 15 per cent. on the work done by our men in Boston. An architect in Boston to supervise the work, and take the same responsibility, would receive from one and a half to two and a half times as much, taking a per cent. on the total expenditures of the entire work.

Q. That is to say, somewhere about $75,000 or $80,000?—A. Yes, sir; that is, if he made the contract including this other work.

A. How much are you paid?—A. Not a cent—never have been, and never expect to be.

Q. How much does Mr. Bryant get?—A. Eight dollars a day. He is a man with twenty-five years practical experience, and whose services are invaluable. If you should go to him to get him to do what he is now doing simply as a matter of money, it would cost you a

great deal more than you are now paying him. It is just so here; take the work done in the architect's department of this Government, and it would cost private individuals, to get the same work done, more than $100,000 for every $10,000 now paid. In the New York post-office building the architect or architects were to have 5 per cent. on the first $250,000 expended; 3 per cent. for the second $250,000; and 2 per cent. on the balance—and this without any expense whatever for anything whatever. The estimates were for three and a half millions; besides a certain amount for the plans accepted. The Government paid out $18,000 cash for those architects' plans alone. The entire expense, including the per centage, would have been between $70,000 and $80,000; and I think that a fair price for that kind and amount of service in New York city to-day.

Q. How long ought it to take to finish that building?—A. The Boston building can be finished in twelve months from to-day, and you ought to be in the New York building before that time.

Q. According to that—if an architect gets $80,000 for one year's work—he need not take more than one or two contracts a year to secure for himself a comfortable income?—A. Yes, but it would not be above the rates that are paid for that kind of work in New York City. The architects of such buildings as the large warehouses and hotels in New York are paid from 3 to 5 per cent. on the gross expenditures.

Q. What proportion ought the raw material of a building to bear, as regards expense, to the cutting and finishing of the material?—A. It is impossible to answer that question, as it depends entirely upon the character of the architecture, the ornaments upon the building, &c. You can put five or six times the cost of the material upon a building in the labor of ornamenting it. Besides you may have a material that is difficult to work, and thereby exposes you to great loss.

Q. [Referring to a diagram of a post office building which lay upon the table.] You have referred to the difficulty of constructing a post office building so as to accomodate the public, and at the same time afford the men in the office sufficient air and light. Why not have a passage way running through the middle of the entire building by which the public could reach the various offices?—A. O, that would cut up the building too much; the offices would be on opposite sides of that passage way, and the men employed in them would have to be continually crossing and recrossing it; and in many other ways it would be inconvenient.

TREASURY DEPARTMENT,
Office of Supervising Architect, June 4, 1870.

SIR: I have to acknowledge the receipt of your letter o the 28th ultimo, and to say, in reply, that I have been unable to furnish the information desired by you, in consequence of my absence in the South.

With regard to your inquiries I have to say that the expenses of the photographic establishment are not chargeable to any of the public works, the office being duly authorized by law as a portion of the office of the Secretary of the Treasury, the general supervision of it being vested in this office. As a consequence, the expenses for stationery, paper, &c., are payable out of the appropriation for the contingent expenses of the Secretary's office, and, therefore, no specific account has been kept of the number of drawings for the different buildings, an aggregate list only of the drawings being kept, except where the work is done for other Departments or Bureaus.

The expenses of the office per annum are as follows, viz:

Salary of photographer	$2,500 00
Salary of assistant photographer	1,374 43
Salary of second assistant photographer	832 00
Albumen and all other paper	304 35
Granulated silver	278 93
Gold	128 05
Chemicals, &c	69 30
Muslin	56 10
Total	5,543 16

The following is the number of photographs that have been prepared, viz:

Of architectural and miscellaneous drawings	15,459
Of counterfeit notes for Treasurer United States	572
Of drawings for architect United States Capitol	182
Of drawings for Light-house Board	121
Of drawings for revenue marine	119
Of maps of postal routes for Post Office Department	135

There have also been prepared 900 negatives, which form a part of the stock of the office, that will enable us to reproduce any drawing that has been prepared at any time at a nominal expense. These negatives alone are worth to-day to the Government more than the

entire expense of the photographic office. By them the Department can reproduce, for a few cents, drawings that would cost from $5 to $50 to reproduce in any other manner, except by lithography, which has been found by experiment to be more tedious, more costly, less accurate, and in every way inferior for our purposes, to the present system. As regards the cost of the work, its cheapness is so well understood that the Department is compelled to decline, almost daily, applications from private parties to do work for them, the cost to be paid into the Treasury.

I may also add that during the war all the military maps were photographed in this office. This, you will readily perceive, was one of the most confidential positions that existed at that time, as the maps were of so secret a nature that even cabinet ministers were not allowed access to them, except by permission of the War Department.

It would be absolutely impossible to transact the business of the office with any degree of promptness, regularity, or economy without this establishment; and I may also add, that it is in almost daily use in photographing original papers, vouchers, bonds, notes, and other documents, for use in the United States courts in important suits, as well as for the use of the secret service division.

I regret that the information cannot be given you in a more accurate form, but to do so would involve the services of an additional clerk, the business done being sufficient to employ the entire time of one man to keep such a record as your committee desires. The advantages to be derived from this would not, in my opinion, justify such an expenditure, but should your committee deem it advisable, I should be very glad to avail myself of such an appointment.

In addition to the duties I have already specified, the large working drawings of the office and maps for the use of the Department are all backed with linen in that establishment, which alone occupies the greater part of the labor of one man.

Trusting this information will prove sufficient for your purpose, I remain,

Very respectfully,

A. B. MULLETT,
Supervising Architect.

Hon. JOHN C. CHURCHILL,
Chairman Committee on Expenditures
on Public Buildings, House of Representatives.

WASHINGTON, D. C., *June* 11, 1870.

ALEXANDER R. SHEPHERD sworn and examined.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside in Washington; my business is plumbing, gas fitting, roofing, &c.

Q. Are you connected with the Vaux anti-freezing pump, and the Vaux roofing patent?—A. I am.

Q. In what way are you connected with it?—A. I am treasurer of the company—the Vaux Anti-freezing Pipe and Roofing Company.

Q. Is that an incorporated company?—A. Yes, sir; it is incorporated under the State laws of New York.

Q. How was the company organized?—A. William S. Carr is president; his place of business is 110 Sixth street, New York. I am the treasurer, as I said.

Q. Was it incorporated under special laws?—A. No, sir; under the general incorporation act.

Q. What patents are the property of that company?—A. Two patents; one for a corrugated roof, and one for the prevention of freezing in pipes.

Q. By whom were those patents procured?—A. By Mr. E. P. Vaux.

Q. Formerly connected with the Treasury Department?—A. Yes, sir; he was for many years foreman of the plumbing work there.

Q. What is the principle of the anti-freezing pipe patent?—A. It is a double pipe; an inside pipe, through which the water flows, protected by an outside incasing pipe made perfectly tight; and the air acting as a non-conductor, prevents the freezing of the inner pipe.

Q. What is the principle of this patent in roofing?—A. It is putting grooves in the roof at a distance of 14 or 18 inches, or in some cases two feet apart, to allow for the contraction and expansion of the metal. The trouble with roofing generally is the expansion and contraction of the breaks of the joints. That is the case with regard to the roofing on the Interior Department and the Post Office Department here; the roofs are almost utterly worthless; the alternate expansion and contraction has broken the joints and made the roofs leaky. These grooves will allow the contraction and expansion of the metal without interfering with the joints.

By Mr. ELA:

Q. These grooves run up and down the roof.—A. Yes, sir.

Q. Is there anything peculiar about the process by which they are produced in the mate-

rial used?—A. No, sir; it is very simple; it merely consists in bending the material over an iron rod—making a "bead," as we term it.

Q. Who are the stockholders in that company?—A. E. P. Vaux, Thomas Brown, William H. Brown, and myself. There were one or two other parties. J. R. Elvans was in it for a while.

Q. Has Mr. Mullett any interest in it?—A. None whatever.

Q. Did he ever have any?—A. Well, the facts regarding that are simply these: Vaux, whom I knew very well, is a clever, good fellow, a first-rate fellow, but a man of no business capacity whatever. He bothered me for a space of six or eight months about his patent roofing and patent pipes. I examined into them, and became convinced they were a good thing. Mr. Mullett, it appears had advanced him the money to get his patents out, and had used them in several public buildings. The roofing had been used for the north roof of the Treasury Department, and on the custom-house in Georgetown, and one or two other buildings. In return for Mr. Mullett's advancing the money to pay the expense of getting out the patent, Vaux transferred to him a certain interest in the patent. I am not certain, I think it was a little less than half. Vaux worried me a good deal about this patent: he said that Mr. Mullett had used it on his buildings, and had not allowed him anything for it; that he did not think it was right; but Mr. Mullett objected, refusing to allow the claim for royalty on the patent so long as he held an interest in the patent. I had a great deal to do, and fought off for a long time. Finally, Vaux literally badgered me into seeing Mr. Mullett and asking him what he would sell out his right for. After a good deal of dickering I bought Mr. Mullett's share in the patent for Mr. Carr, of New York, and myself, giving Mr. Mullett $6,000 for it. My expectation at that time was that, after acquiring possession of the patent, I could get from Mr. Mullett a royalty for its use. I really do not think Mr. Mullet has acted right in the matter; he has refused to pay anything. The Government actually owes us $4,000 or $5,000 on that account.

By the CHAIRMAN:

Q. Do I understand that you purchased any claim for the use of the patent previous to the time of its purchase?—A. I bought all his right, title, and interest in the patent. I supposed that would include something due from the Government for the use of the patent, but we never have obtained anything. It has not been our object to make a fight on it, or anything of that kind; if we should, I really think the courts would sustain our claim. But we have thought it not worth while, and have let it go. After purchasing the patent, Mr. Carr and I consulted together and made a proposition to the Secretary of the Treasury. We, that is, myself, Mr. Vaux, and these other parties, were now the proprietors of this patent pipe and roofing. It had been tested by the Department and they were thoroughly satisfied with it. The company undertook to do whatever roofing the Department wanted, and whatever plumbing it wanted, on certain terms and conditions. These were that we should receive—I will remark here that there were a good many buildings being put up at a distance from where there were plumbers and workers in metals, so that it was difficult to get men to do the work in such places—we undertook to do whatever plumbing and roofing they wanted, and to warrant our work for ten years, on these conditions: we were to receive a commission of 18 or 20 cents profit upon the net cost of the labor and material and of the work to us, and we, for the use of the patent, receiving on the roof 10 cents per square foot as royalty, and on the pipe 10 cents per lineal foot. The proposition was reduced as to the piping: when I submitted the proposition to the Secretary of the Treasury he cut down the commission, saying, that if we would take 15 per cent., he would accept the proposition, and where roofs and pipe of that kind were needed we should have the orders. A formal arrangement of that kind was made in the name of William S. Carr & Co. Shortly afterward we found it was best to put the thing into the shape of an incorporated company, and we accordingly incorporated under the laws of the State of New York. I attended to the business here, finding it more convenient to do so. Since that time we have put on, I suppose, half a dozen roofs, and done $40,000 or $50,000 worth of work for the Government.

Q. Of what kind?—A. We have put on roofs for Government buildings; the court-house at Richmond, Virginia; the custom-house at Portsmouth, New Hampshire; the post office at New Haven, Connecticut; we did some work at Portland, Maine; some at Madison, Wisconsin; some at Des Moines, Iowa. We put on a roof for Mr. Mullett at Cairo, Illinois; he had the material there, everything but the copper, and was very anxious to get it roofed in to save the building; so was Mr. Logan. They asked us to do it and wait for the pay until an appropriation was made. We put on a roof at Mobile, Alabama.

Q. With whom were these arrangements made of which you speak?—A. With Mr. Boutwell.

Q. When?—A. Something under a year ago, I think.

Q. And this work you have named has been done since that time?—A. Yes, sir.

Q. Under that contract, or an agreement?—A. Yes, sir.

Q. Was there any understanding in your purchase of Mr. Mullett's interest, that you should have this claim for royalty for work that had already been done for the Government?—A. No, sir; my impression is directly contrary, that so far as he was concerned I should

never be able to get it. I thought to get it through an appeal to the Secretary, or in some other way.

Q. What do you understand by the net cost of the work done by you to these buildings? —A. The net cost of the material and the labor. With regard to this contract and how it works with the Government, you will see that the Government saves one-fourth on the work from the fact that our men work ten hours a day, while men in the Government employ work but eight hours a day. Ours being a private contract, our men working not for the Government, but for us, we exact ten hours a day. That is one of the things we looked at when the agreement was made. Then we put our men on the time rolls at the same rates we were paying here. This was a great gain to the Government, for at Madison and Des Moines, having taken our men from here, and paying them the wages agreed upon here before starting, we secured their work for $3, $2 50, or $2 a day, while out there we could not have got roofers under $5 50 or $6 per day.

Q. Did the Government pay them from the time they left here?—A. Yes, sir.

Q. Who paid their expenses on the way?—A. They were paid by the Government; we charged their expenses to the Government, and the amount was refunded to us.

Q. Was your own time charged in connection with the matter?—A. The superintendent's time was charged.

Q. Was this 15 per cent. charged not only upon the material used, and the work of the men, but upon their railroad fare, traveling expenses, &c.?—A. Yes, sir.

Q. Where was the material taken from?—A. Right from headquarters—New York.

Q. Can it be purchased cheaper there, taking freight into consideration, than at Chicago, for such places as Madison and Des Moines?—A. Yes, sir. The lead purchased for such places was purchased at St. Louis.

Q. What is this 15 per cent. paid you for?—A. Why, that is our profit on the work.

Q. If you had a job of work to do in Washington for the Government, would you not charge your regular prices?—A. No, sir, we would not charge our regular prices; we would charge regular cost prices.

Q. What do you mean by cost prices?—A. Only what we ourselves pay out. Suppose we had work to do for private parties here in town; we never would do plumbing work for a less profit than 33⅓ per cent.

Q. You mean you make that profit in addition to what you pay for material and for men? —A. Yes, sir; for instance if we pay $4 a day, we charge at the rate of $6 a day.

By Mr. PHELPS:

Q. Why would you add 33⅓ per cent. in case you were doing work for private individuals? —A. Just as a merchant adds 33⅓ per cent. to the cost of his sugar, coffee and other articles, in order to cover the expenses of rent, &c., as well as secure some profit for himself. In this instance, in the case of the Government, we charged less, because the amount of work we were doing was larger, and we thought we could afford to do it at a smaller per cent. of profit.

By the CHAIRMAN:

Q. This 15 per cent. covers also the guarantee for ten years?—A. Yes, sir; it covers everything.

Q. Has this patent roofing been used by you, to any great extent, outside of the work done for the Government?—A. It has been in use only the past year, but it has been used outside of the Government buildings; I have used it on some of my own buildings; I have used the pipe considerably.

Q. In work for private individuals?—A. No; for myself.

Q. Do you know of any cases in which these patents have, either of them, been used by the company for private individuals, or the right to use them sold to private individuals? —A. Well, I don't think they have been used by any private individual except myself; one principal reason is, I have not had the time, out of my own regular business, to make arrangements to carry on the thing

Q. When was this company formed?—A. Some time, I think, in July of last year.

Q. When were the patents obtained?—A. The year prior to that; they are now of about a year's standing; I do not recollect the exact date; I have the papers that will tell.

Q. Have you fixed any prices for the sale of this roofing, or for its use by private individuals?—A. No, sir.

Q. You have made no contracts whatever?—A. I have done a good deal of work myself where these pipes were used, and have charged into the price of the work enough to cover the use of the patent.

Q. What price have you charged for the use of the patent?—A. It would be difficult to get at that as a separate thing; I have generally put on to the work a charge of 50 per cent., when, if it had not been for the use of that patent, I should not have charged so high a per cent.

Q. That 50 per cent., I understand you, covers both your profit and the net cost of the work, and the use of the patent?—A. Yes, sir.

Q. Have you done any work under these patents for private parties in New York?— A. No, sir; we are in treaty for roofing that big building of Vanderbilt's.

Q. What are your terms with regard to that?—A. They are not settled definitely; the parties have been spoken to, and they appeared to think favorably of it.

Q. Is not 10 cents a square foot a large price for the use of so simple and cheaply applied a method as this patent covers?—A. I think not, when you take into consideration the fact that we warrant the roofing for ten years. I venture to assert that the Interior Department and Post Office cost the Government 50 cents a square foot just for repairs, and I believe the books will show it; I know that solder has been put on those buildings by the hundred pounds, and that men are kept at work upon them almost constantly. I believe this roof of ours, if there is any fair show given it at all, will be adopted. Copper roofs are very expensive, and cannot be put only upon expensive buildings: the copper itself costs, on an average, 30 to 40 cents a pound; that is a very heavy item of itself. It is the most durable roof, two to one, that can be put on to a building. The President's house is covered with copper; but I guarantee that the cost of repairs for it has been four times the cost of the original roofing.

Q. What is the weight of the copper that is used by this company in roofing?—A. Fourteen ounces for the sheeting or flat surface, generally; the other from 16 to 22.

Q. The royalty then adds about 25 per cent. to the cost of the copper?—A. Well, I do not know——

Q. What is the present price of sheet copper?—A. Thirty-one cents, I think.

Q. Then allowing 14 ounces of copper to the square foot, your charge of 10 cents a foot makes your royalty more than 33 per cent.

By Mr. ELA:

Q. At what time did you make this purchase of the Vaux patent—before you had this talk with the Secretary of the Treasury, or afterward?—A. I had no talk at all with the Secretary of the Treasury. I merely submitted a proposition to him.

Q. Was that proposition submitted to him before or after your purchase?—A. Long after: I purchased the patent a year ago last April, I think, and the proposition was submitted last June or July—two or three months afterward.

Q. Was there any understanding at the time of purchasing this patent, that it should be used on Government buildings?—A. No, sir; it had been used, and I supposed that they would follow it up, as they seemed to be well satisfied with it.

Q. You stated that you paid Mr. Mullett $6,000 for his interest; did that pay come in the shape of a house trade, or was it a direct cash purchase?—A. Well, the way of that was this: I paid him by my note secured upon the house—the house in which Mr. Mullett lives; and he took the house. In speaking about that ten cents per square foot, it should be understood that that is not 10 cents per square foot of copper, but 10 cents per square foot on the roof after the copper is put on, and the copper being curved, or corrugated, as it is, of course it takes more than a square foot of copper to cover a square foot of the roof. Besides, that covers our guarantee for ten years.

Q. Is there any roofing of copper on any principle that would not last ten years without repair?—A. Yes, sir; there is not a roof in Washington that has lasted three years without repair.

Mr. ELA. Why, I have a tin roof that has lasted since 1849.

Mr. PHELPS. According to that, copper is not as good as ordinary pine shingles.

The CHAIRMAN. Is this the only contract between your company and the Department?

WITNESS. Yes, sir.

The proposition of William S. Carr & Co. to A. B. Mullett, Esq., superintending architect of the Treasury Department, was here introduced in evidence as follows:

"OFFICE OF WILLIAM S. CARR & CO.,
"110 *Center Street, New York, July* 19, 1869.

"DEAR SIR: In reply to your favor of the 16th instant, we have to say, that in view of the fact that a large proportion of the roofing and plumbing in your Department is of the kind known as jobbing and repairing, it seems to us that the fairest proposal for both parties is to name a certain percentage of profit over and above the actual cost of material and labor, which should include all charges for patent-rights, royalties, &c.

"As a proposition, we submit that we will undertake such work in the roofing and plumbing as you may give us, apply the Vaux-patent principle to both branches, keep and submit an accurate detailed and sworn statement, if required, of the net actual cost, charging thereon a percentage of 25 per cent., which shall include all charges for royalties, patent-rights, &c. Or, if you prefer, we will name a royalty of 10 cents per lineal foot on the patent casing tubes which may be used in your Department, and charge a percentage of 18 per cent. on the actual cost of plumbing material and labor needed in repairs and work. We believe that either of the above propositions is fair to both parties. We wish to do good work and make a living profit, and we feel assured that the experience of all who have had to do with plumbing and plumbers is, to allow a fair profit and get good work.

"Very respectfully, yours,

"WM. S. CARR & CO.,
"*Per S.*

"A. B. MULLETT, Esq.,
"*Supervising Architect.*"

The CHAIRMAN. I see nothing in this contract about warranting the work for ten years.

WITNESS. I thought there was—I know that was the understanding. If it is not there, it must have been stated in the orders since. There is an indorsement on the back of that; let me see what that is.

The indorsement was as follows:

"Approved on a percentage of 15 per cent., and a royalty (on pipe and roof) specified.

"WM. A. RICHARDSON,
"*Acting Secretary.*

"SEPTEMBER 4, 1869."

"The proposed reduction of 15 per cent. is accepted.

"WM. S. CARR & CO.

"SEPTEMBER 4, 1869."

By Mr. ELA:

Q. Did you have any opposition in any way in regard to this plumbing about the Treasury Department—any biddings?—A. Oh yes, sir; that work was furnished by a dozen different parties.

Q. I understood you to say that you got the contract?—A. No, sir; we did only such work as they saw fit to give us. There has been ten times the work done that we have done.

By the CHAIRMAN:

Q. I see here a specification of a royalty of 10 cents per lineal foot on the pipe, but nothing about any royalty on the roofing?—A. I thought there was; it was intended to apply to that, certainly.

Q. Can you state what you have received from the Government during the past year?—A. I do not recollect the amount; it can be gathered from these papers I have brought.

Q. Please examine them, and give the committee the items and the aggregate.—A. I find that the Government has paid the following amounts as royalty for the use of our patent roofing and anti-freezing pipes on the following buildings:

Marine hospital, Portland, Maine, royalty on roofing	$915 80
Court-house and post office, Portland, Maine, royalty on roofing	245 50
Same building, royalty on pipe	64 00
Custom-house, Portland, Maine, royalty on roofing	181 10
Same building, royalty on pipe	93 60
Custom-house, Portsmouth, New Hampshire, royalty on roofing	675 00
Custom-house and post office, New Haven, Connecticut, royalty on roofing	672 60
Same building, royalty on pipe	28 80
Custom-house and post office, Richmond, Virginia, royalty on roofing	865 00
Same building, royalty on pipe	112 20
Court-house, Madison, Wisconsin, royalty on roofing	722 30
Custom-house, Cairo, Illinois, royalty on roofing	270 95
Court-house and post office, Des Moines, Iowa, royalty on roofing	758 80
Total	5,615 65

By Mr. ELA:

Q. In charging these things against the Government, as I see you do in these vouchers, do you charge just the same price you would to private individuals?—A. Oh no, sir; we charge the net cost price of the material to us.

Q. How do you go to work to make up the net cost to you?—A. Why, we keep an account of what we have to pay for material, and we charge the Government the same.

By the CHAIRMAN:

Q. But where you are carrying a large amount of these things, do you charge nothing as interest on the money invested?—A. Yes, sir; of course. In such cases we have to charge enough to cover interest on the outlay.

Q. Is that all you include?—A. Yes, sir.

Q. Nothing for rents, or anything of that kind?—A. Oh yes; we may put on a little for rents and the cost of our tools, and some little expenses of that kind.

Q. I see that in the case of the Des Moines court-house you charge the Government with 2,490 pounds of copper, at 40 cents per pound. I see that the price in Boston and Philadelphia is 30 cents. By what calculation did you make the price of that copper up to 40 cents per pound?—A. Copper has greatly depressed in value since that was bought. That copper cost us in New York 37 or 38 cents. I put on 2 cents per pound to cover the cost of transportation and other contingencies; but I do not believe it did cover them.

By Mr. ELA:

Q. I see that a good many things are set down as purchased at the places where these buildings are going up; it appears that you do not take from your headquarters here, or in

New York, all the things you want.—A. No, sir; there are lots of little things that cannot be provided for beforehand.

Q. Taking into consideration the expense of freight, rent of store-room, tools, &c., how large a percentage do you add to the original cost to you, to constitute what you call the net cost to the Government?—A. From 5 to 7½ per cent.

Q. Then you consider 7½ per cent. a good allowance to cover everything of that kind?—A. Yes, sir. That copper that you spoke of in connection with the Des Moines building—when that was needed the Government was out of money; so I bought it. and carried $15,000 or $20,000 worth of copper for five or six months. I had to pay interest on that money from the time I purchased the copper. Again, I shipped some copper to Mobile; a fire took place, and five or six cases of copper were destroyed. That ate up all the profits on that job.

By the CHAIRMAN:

Q. In this Des Moines bill, I see that the railroad fares of the workmen constitute 50 per cent. of their entire time roll; could not workmen have been procured at Chicago or in Iowa at rates that would have come to less than that, upon the whole?—A. We tried that, sir; and we found we could save $200 or $300 on the job by taking our workmen from here. The wages here were from $2 to $3 50 per day, at the outside; at Chicago we could not get men at $5 or $5 50 per day. Labor is very high out there.

Q. I see by this that you paid these men, some of them, $4 or $4 50, in some cases $5.—A. Only one man $5. I believe you will find that if the Goverument had attempted to do that work itself, it would have had to pay twice the money.

Mr. ELA. I guess if you had been doing that work for yourself you would have hired men at Chicago or Des Moines.

WITNESS. No, sir; we could not have done it. We offered $5 a day at Chicago.

By the CHAIRMAN:

Q. What price did you pay your superintendent?—A. Our foreman, his name was Clatworthy, was put down at $6 50 per day; we pay him a salary of $2,000 per year. Thomas M. Shepherd superintended the job; he is my brother.

Q. I see he was paid under two heads; his name is down on the pay-roll, and then there is a separate charge for him as superintendent.—A. The charge for him as superintendent refers, as you will see, to the time before the work was commenced; after the work was commenced, his name was put down on the pay-roll, and he ceased to receive pay in the other capacity. He was not paid twice for the same work, I can assure you that.

Q. Has Mr. Mullett now any interest in this patent?—A. No, sir; none whatever; and has not had since I purchased him out.

Q. Was there any understanding or suggestion that he would receive anything in return for giving you this work to do?—A. No, sir; I know him too well to make any suggestion of that kind to him, if I were inclined to do so. He has not received one particle of benefit from it, in any shape, directly or indirectly, since I purchased him out. That was an express stipulation at the time. In reference to the portion of the patent which I bought of Mr. Mullett, I think I said at the commencement of my examination that he owned about one-half of the patent. I think that Mr. Mullett had about $\frac{1}{32}$ of the patent.

Q. What was the whole patent valued at?—A. I think that Brown paid Vaux for his share $3,000, and he owned $\frac{4}{32}$ or $\frac{6}{32}$, I forget which; I think it was a little over a quarter.

Q. Was not the patent estimated by the corporation, when formed, at some fixed price?—A. Yes, sir; it was valued at $32,000.

Q. That was the nominal price at which it was capitalized?—A. Yes, sir; thirty-two shares of $1,000 each.

WASHINGTON, D. C., *June* 18, 1870.

ELLIS SPEAR sworn and examined.

By the CHAIRMAN:

Question. What position do you hold?—Answer. I am a primary examiner in the class of railway and civil engineering of the Patent Office.

Q. How long have you held that position?—A. Since August 1868.

Q. Was a patent obtained some time since in the Patent Office by Mr. E. P. Vaux for a method of metallic roofing?—A. Yes, sir.

Q. When was that?—A. My knowledge of it is based on the record only. I can tell from the file. I find from the record I have with me it was June 30, 1868.

Q. Have you the papers from the Patent Office, connected with the granting of the patent?—A. I have the original specification, and the correspondence, and the amendments to the original drawing.

Q. Please explain that to the committee.—A. This application was made March 25, 1868. I can best explain to the committee by reading what is stated to be the nature of the invention.

Witness read as foliows: "The nature of my invention consists in covering roofs either

of timber or iron frames with thin metal plates which are corrugated for the purpose of counteracting the effects of expansion and contraction, which, when not provided for, invariably destroy the continuity of the covering material."

That is the manner in which the inventor states the nature of his invention. This application was rejected by the primary examiner, my predecessor, twice; a second rejection being a final rejection before the primary examiner. The case was then appealed to the board. The grounds of the decision of the primary examiner, as shown in these records, were: first, that it was anticipated by references given in the office, the anticipation consisting in devices which show provision for a lateral expansion, and which are so constructed and arranged that longitudinal expansion was provided for already; and secondly, that expansion having been provided for by corrugations, there was no invention in simply putting in more corrugations, so that expansion could be provided for in all directions. That was the ground of the action. It went to the board twice, and the proceedings were not exactly regular. They were all proper; but the Commissioner allowed the case to go back once or twice. The board finally allowed the applicant to amend, and upon that amendment they allowed the case. The amendment was simply an amendment of the claim which I have given, and which is appended to the specification for the purpose of pointing out distinctly in the drawing what the invention consists of. In this case the invention was pointed out in the preamble, and also stated in the claim. I will read the claim as it was allowed by the board: "A corrugated metal roof that will allow expansion and contraction in all directions, when the same is constructed and arranged substantially as herein described." That claim was allowed by the board, and that is the patent. That is the invention, as stated by the specification.

Q. Please show the ways in which this invention may be carried out.—A. [Witness proceeded at length to point out to the committee, by reference to diagrams and figures, the way in which the inventor applied his invention, and the method of its application.]

By Mr. ELA:

Q. Is not the principle the same as that which is applied on the roof of the Capitol?—A. Yes, sir.

By the CHAIRMAN:

Q. Is there any thing more of the description of the patent which you desire to present?—A. I might say in regard to this claim, what I stated before, that as the office now rules, and as the present Commissioner holds, this claim would cover not only this specific device, which he shows, but any construction of roof which provides for expansion both ways; the terms of the claim being "A corrugated metal roof that will allow of contraction and expansion in all directions." The other clauses refer to other specifications. What was refused by the primary examiner was allowed by the board. There was a difference among the examiners in regard to the scope of the claims. When a claim read as follows, "when the same is constructed substantially as herein described," it was held by some that that would limit it to the exact thing shown and described; but the Commissioner holds and the courts hold that that does not strictly limit to the thing shown, but that it includes anything in substance like it.

By Mr. ELA:

Q. Would a thing be patentable that had been in use by the public ten years?—A. No, sir; it would not be if it were known at the office.

Q. Being granted, would it be of any avail?—A. No, sir; if it were shown that it was invented by somebody else, the courts would not sustain the patent. That is the law and the practice.

Q. This being the same principle as has been in common use, and the same exactly as that on this Capitol, there can be no patent for the corrugation?—A. No, sir; that is admitted in these papers. What he claims is the construction and arrangement of the roof by corrugations so as to permit of expansion and contraction in all directions.

Q. Has your observation shown you any instance of a corrugated roof so constructed as to permit expansion in all directions, before this patent?—A. Yes, sir. I can show the committee references given in this case which I think do it.

[Witness, by permission of the committee, proceeded to point out from a drawing in his possession, how the principle was applied in a case rejected in 1860.]

Q. Have you that principle of giving room for expansion and contraction in all directions, in your office, before this case?—A. I should say, so far as I know, we have no instance in which any corrugation is drawn at right angles so as to allow contraction or expansion both ways. We have not both horizontal and vertical contraction provided for by corrugation both ways.

Q. Does that really provide for expansion in all directions, when you leave the whole strain to come upon that small space where there is no corrugation? [Referring to a case represented in the figure shown.]—A. There is a corrugation across the whole length. In order to set myself right and the office, I wish to be understood that I do not say that we have any case precisely like this, where the corrugations run up and down and also across. The ground taken by the examiner was that corrugations being made one way and providing

for expansion one way, it was not a thing to be patented simply to provide for expansion another way.

By Mr. GRISWOLD:

Q. Is it not a principle to try to cover everything claimed in the description?—A. We are careful that one party does not infringe upon another; but when the question is simply as to the utility of the matter, whether it be of value or not, we leave the man to find out by trial. If the party claims and shows an essential difference that does not interfere with anybody else, we allow the claim, even if it be the private judgment of the examiner that it is of no value. But if it interferes with any other which shows substantially the same thing, we refuse it.

Q. Did you have the charge of the issuing of this patent?—A. I did not; it was done by my predecessor.

By the CHAIRMAN:

Q. How long was this application pending?—A. I cannot tell you exactly. It was filed March 25, 1868, and was ordered to issue June 30, 1868. The examiner filed the order to issue then. Mr. B. F. James was the examiner. In the mean time there were two examinations by the board. The Commissioner allowed it to go back for the purpose of making some changes in the claim. I find, on looking at the indorsement, that it was patented June 30.

WASHINGTON, D. C, *June* 18, 1870.

THOMAS C. CONNOLLY sworn and examined.

By the CHAIRMAN:

Question. What position do you hold in connection with the Government?—Answer. I am a principal examiner in the Patent Office.

Q. Did Mr. E. P. Vaux make application to the Patent Office for a patent for an improvement in tubing; and if so, when?—A. Mr. Vaux applied for a patent for an improvement in protecting pipes from freezing, on the 14th of September, 1867.

Q. Have you the claim on which he made his first application?—A. Yes, sir. The application I speak of now was rejected, but I have with me the specifications, including the claim.

Q. Are these original papers from the Patent Office?—A. Yes, sir.

Q. You may read the paper, if you please.

[Witness read the paper referred to, of which the following is a copy:]

"*To whom it may concern:*

"Be it known that I, E. P. Vaux, of the city of Washington, District of Columbia, United States, have invented a new and improved mode of protecting pipes or vessels or their contents from freezing; and I do hereby declare that the following is a full and exact description thereof, reference being had to the accompanying drawing, and to the letters of reference marked thereon.

"The invention consists in the application of an air-tight covering, isolated by a body of air, to the pipe or article to be protected, the inclosed air acting as a non-conductor. The accompanying drawing shows its application to a water or other pipe.

"Figure 1 shows the exterior of a pipe protected as above described, *a* being the pipe, *b* the exterior covering or outer pipe, *c* the caps connecting the pipes and forming an air-tight, non-conducting chamber.

"Fig. 2 shows a longitudinal section of the same, exhibiting the non-conducting chamber and the mode of connection.

"Fig. 3 shows the end of the connected pipes.

"Fig. 4 shows a transverse section through pipes and cap. It is obvious, however, that the connection may be made by any other method that would hermetically seal the outer covering.

"What I claim as my invention and desire to secure by letters patent, is the protection of pipes or vessels and their contents from the action of frost, substantially in the manner described.

"E. P. VAUX."

Q. What was your decision upon that application?—A. It was expressed in a short letter which I will read, with the permission of the committee:

"A rejection is hereby declared. Preserving the temperature of pipes and other vessels and their contents by means of external air chambers, or air jackets, has long been patent to the public. Double windows in houses are made on this principle; ice-houses and fruit-houses are so constructed. To encase any pipe in metal or in wood (a better non-conductor than metal) is everywhere a familiar domestic expedient. There are few modern houses of any magnitude in New York, or in any other northern city, in which this principle is not observed with respect to water and gas pipes. Ice-water pitchers are generally cylinders surrounded with hermetically sealed air chambers. The pipes of steam engines have long

been so incased. (See Bonner's Treatise on the Steam Engine; London, 1847; p. 11, Fig. 11.)

"T. C. CONNOLLY,
"*Examiner.*"

Q. What further was done?—A. When that letter was received by Mr. Vaux, he came to the Patent Office and expostulated with me in regard to the rejection, as he believed that he had an invention that ought to be patented. I insisted that he had nothing "new and useful," in the language of the patent law. He seemed very much disconcerted, and asked my advice, and I gave him my advice as I always do, if I find a man is lacking in a knowledge of the patent laws. I had considerable discussion with him, and he went away very clear in the idea that what I had suggested was true; and after a few days, on the 23d of September, he brought it back and made his application in a new and amended form, thus relinquishing the form which lies in the archives of the office as a rejected case, and proceeded with his new application. He next presented an external tube and an internal one, or an internal tube as continuous. The external tube would be continuous also, but that he chose to put disks around the inner tube; and by a kind of striking apparatus he determined to strike the disks so as to converge outward, by a kind of swedging process, so as to prevent air or water passing beyond that point, and thus this inner tube would be protected, and that was the fundamental idea of his invention. He explained that idea, and the means of applying it in his application. There were some little things which were incidental and useful, and were claimed in connection with it. I have reviewed this patent since I have been subpœnaed, and have written out what I understand the claim to be. This I will read, if you please.

Witness read the paper referred to, as follows:

"The first clause of the claim is for 'a pipe constructed and arranged for the transmission of fluids, having a hermetically sealed air chamber surrounding it, substantially as described.' That is to say, the interior pipe must be continuous, and the exterior broken in its continuity at suitable points, so as to form many separate air chambers, in order that a fracture in the external pipe shall not injuriously affect the interior pipe for any extended distance.

"The second clause claims, in combination with the foregoing, the 'intermediate braces, whether consisting of discs or other radial supports, or supports of horizontal pipes, substantially as described.' This is but reciting additional elements to the combination claimed in the first clause, the 'discs' being in fact repeated; 'or supports of horizontal pipes' appear to be meaningless words, or mere surplusage.

"The third clause is for the concentric pipes, the exterior of which may, however, be of other than cylindrical form, as shown in Figure 8, 'when united at its [their] curves or angles, substantially as described.' This is for the same invention already claimed, with an added characteristic described in the specification, on page 5, lines 22 to 25 inclusive, that is to say, that where elbows or bends occur the pipes may be joined in certain ways.

"It will thus be seen that, if the subject-matter of the first clause is 'new and useful,' the subsequent clauses must necessarily be valid; and that, though the first clause were not 'new and useful,' one or both of the subsequent clauses might be patentable by reason of the increased number of the elements comprehended in the combination."

Q. What was your report upon this second application?—A. It was simply the act of granting the patent. I indorsed my name September 23, 1867. That is the decision of the Patent Office, allowing the patent.

Q. Was the patent immediately granted upon that favorable report?—A. Yes, sir; it is dated October 15; my action was September 23; that is a very little more than the time usually given for recording the patents issued.

Q. There was no delay in securing the patent, except for that?—A. None whatever.

Q. And after the rejection of the first patent and the preparation of the papers for the new one, was there any?—A. None at all.

Q. Was there any expense involved so far as you have any knowledge?—A. None but the two fees marked on the bill; $35 in all, to the Patent Office.

By Mr. GRISWOLD:

Q. Will you please explain more fully the advantage of the spaces between the two tubes, being divided into two separate chambers?—A. That is the invention indeed. The interior tube is for the water which passes along through that by its momentum. Then there is an exterior tube. When these are above ground the water will freeze in the interior tube sometimes. If there is a leak or the water enters between the tubes it will freeze, and there being no interruption may freeze throughout it entire length. These discs are so made that they not only constitute air chambers, but afford firm supports and keep the tubes equally distant from each other, and they are stricken up in such a manner that water or cold air does not pass these points. If an accident occurs or a fracture is made, it can only extend so as to injuriously affect the inner tube for the short distance where it occurs, instead of throughout its length. And if there are repairs to be made, it will be only for that short distance, and the influence of the water or cold air will extend only for that distance.

By the CHAIRMAN:

Q. The only thing patented is the method of keeping open the space between the outer and inner tube, and the contrivances for producing that result?—A. Yes, sir. When you once invent anything everything which may be accessory to it may be claimed. But if the first fundamental idea fails, they go with it.

The witness, by permission, then went on to state as follows: The suppression of a truth is about as bad as the telling of a falsehood. Mr. Vaux, when he first failed, his temper was up. He thought it very absurd to have it rejected. He was honest about it; he knew he had a good thing. I said, you must get one of these professional men and do your best. I think he said he was in the employ of Mr. Mullett; he spoke of Mr. Mullett at any rate. I told him Mr. Mullett has been my friend and my neighbor; his family and my family were friends, and if he will advise you he will advise you for the best. The consequence was, Mr. Mullett was to see me; he was equally indignant with himself. I questioned Mr. Mullett and found he did not know what the invention was; and finally I convinced him I had done right. He said the man was ingenious, and if I could help him he would be obliged to me. I wish to state this, because if I should go away without doing so, I should not be as full a witness as I ought to be.

WASHINGTON, D. C., *June* 8, 1870.

BARTHOLOMEW OERTLY, sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?—Answer. Now in Georgetown, D. C., though I am very rarely home now.

Q. What is your occupation?—A. I am by profession an engineer and architect.

Q. How long have you followed that profession?—A. Ever since my college time, about twenty-four years.

Q. Have you held any position in the Treasury Department, and if so, how long?—A. I have, for thirteen years.

Q. What position?—A. First computer and sworn measurer, and finally assistant architect.

Q. When were you appointed assistant architect?—A. In 1865.

Q. When did you cease to be architect?—A. In 1868.

Q. Who was the supervising architect during the time you held your position as assistant architect?—A. The first year Isaiah Rogers; afterward Mr. Mullett.

Q. Was there a cabinet shop connected with the Treasury Department under the supervision of the supervising architect during the time you were assistant superintendent?—A. There was.

Q. Do you know, while you were assistant supervising architect, of any furniture having been made at that cabinet shop for parties other than the Treasury Department?—A. Yes, sir.

Q. State what parties?—A. I do not remember many; you will find it all on the records of the Department.

Q. Where; that is, upon what books and in what shape?—A. Where such work was done for outside parties a charge of the work was made, and the sum was generally refunded; whether it was all finally refunded or not I do not know; the records will show.

Q. That is, the furniture was made and charged upon the books against the parties for whom it was made, and in some cases it was paid for?—A. Yes, sir; at least in my time.

Q. Give the names, if you please, of any such parties whom you can remember?

Mr. ELA. Would it not be better to refer to the books?

By the CHAIRMAN:

Q. Where are the books?—A. In the supervising architect's office.

Q. In what year was that furniture made?—A. I only know about what was made while I was there, from 1865 to 1868.

Q. Upon whose order was this furniture made?—A. Members and Senators used to go up there and admire the furniture, and desire some similar made for their use.

Q. And so ordered it?—A. Yes, sir.

Q. Were such orders approved by the Secretary?—A. I do not know whether they were or not; all I know is the furniture was made.

Q State the persons for whom the furniture was made?—A. I remember a desk for Senator Pomeroy, and one for Senator Sumner, and some desks for Secretary McCulloch.

Q. For his room in the Treasury Department or his house?—A. For his house. There were others, but I do not recollect their names now.

By Mr. ELA:

Q. Does the system of keeping books at the Treasury office show for whom the furniture was made, its cost, whether it was paid for or not, &c.?—A. Yes, sir.

Q. Who had charge of the books in which those entries are made?—A. I think Mr. Carr

had at that time. The daily reports will show the same thing; the daily reports made by the mechanics themselves.

Q. Who was superintendent of the shop when this work was being done?—A. Mr. Suter.

Q. Is the same person now in charge of the cabinet shop?—A. I suppose he is; I do not know.

Q. Is Mr. Carr now connected with the office of the supervising architect?—A. I do not know; I have not seen him for some time. He was chief clerk of the office at the time.

Q. How was the price arrived at for which those articles were charged to these persons?—A. From these daily reports; they gave the time consumed in making the furniture, as well as the cost of the material.

Q. The amount of material and labor was footed up, and made the basis of the accounts; then the articles were charged to the parties at their first cost to the Government?—A. Yes, sir.

Q. Do you know anything about the procuring of looking-glasses for the new extension of the Treasury Department?— A. Yes, sir; but you will find all I know about that in the report of my evidence before the Committee on Post Offices and Post Roads.

By the CHAIRMAN:

Q. Do you know anything about the Vaux roofing patent? If so, state what you know in reference to it.—A. The Vaux roofing patent is a device against the deleterious effects of the contraction and expansion of metals by heat and cold; when used as material for the roofing of buildings the metal is put on the roof with a "curvation," to allow the contraction and expansion. That constitutes the main claim of the patent. It was invented by Mr. Vaux.

Q. The peculiarity of the patent, then, does not consist in the material employed, but in the shape in which the material is applied?—A. Yes, sir, in this device; it can be applied with any metal.

Q. Is there any special difficulty in applying that method to any kind of metallic roofing?—A. Not to my knowledge.

Q. Do you know whether Mr. Mullett had, or has had, any interest in that patent?—A. I think Mr. Vaux assigned a portion of the patent to Mr. Mullett; what came afterward, I really do not know.

Q. How extensively has that roofing been employed on the Government buildings?—A. I am unable to say; the patent was issued two or three months before I left, so I cannot say how extensively it has been used on public buildings.

Q. Have you any knowledge of its being used on any public buildings?—A. I think it was used on the treasury extensions.

Q. Before or after the assignment of the interest in the patent to Mr. Mullett?—A. I think that was before the patent was issued.

Q. Do you know anything of the terms upon which the Government was permitted to use the patent upon the treasury extension?—A. I do not know.

By Mr. ELA:

Q. Was there any peculiar difficulty in putting that roofing on the building?—A. I do know that there was.

Q. State how it is laid; whether it requires any peculiar instruction.—A. No, sir; it is laid on in the usual manner in which copper roofing is laid on.

Q. It is laid on in that form? (bending a sheet of paper into a succession of curves.)—A. Yes, sir; there is a corrugation in each sheet. The guttering is made in the same way. There is really more merit in that than in the roofing.

Q. Now state to the committee about this anti-freezing pipe; what is it?—A. It is simply a pipe within a pipe, leaving between the two an air space.

Q. It is simply a 3-inch pipe with a 2-inch pipe inside of it?—A. Yes, sir; that is all.

Q. Is there any difficulty in arranging this sort of pipe any more than any other?—A. Not that I can see.

Q. In making your drawings for public buildings, after the first drawing, are the additional copies photographed?—A. Yes, sir; generally.

Q. When you make the drawing of any building, or of any part of a building, a section or floor, after making one drawing, you photograph the rest?—A. Yes, sir; unless only a few copies are required; if but few copies are required, it is better to have them traced by some draughtsman.

Q. How many copies are generally required?—A. Before the drawings are made a good many copies are required for distribution of the drawings to the bidders; after the contract is once made there is no need of so many copies; there is no need of more than four or five.

Q. Ordinarily, how many copies would be required for a public building?—A. Well, sir, before the Department employed a photographer, they used to print about 300—from 200 to 300 copies. We, then, of course, lithographed copies from the original drawings.

By Mr. CHURCHILL:

Q. That was for getting bids, I suppose?—A. Yes, sir. After that, three copies will answer

the purpose—one for the home office, one for the contractor, and one for the superintendent of the work. Making allowance for the waste of one or two, half a dozen would be all that legitimately could be needed.

Q. What was the expense of preparing those lithographic copies you speak of, compared with the expense of the photographic copies that are now employed?—A. That I could not say; I should suppose that, practically, the difference would not be very great.

Q. Do you know of any work having been done by the workmen employed in the carpenter shop connected with the Treasury Department, other than that done for the Treasury Department?—A. There were a few jobs done in the same way as those which were done in the cabinet shop.

Q. When?—A. About the same period.

Q. And charged in the same way to the persons for whom the work was done?—A. Yes, sir.

Q. Was that work ever paid for by the parties for whom it was done?—A. Yes, sir; I think the work done by the carpenter shop was mostly refunded.

Q. For whom was that work done?—A. Some of it was done for General Jeffries; some for other parties. But I would rather you would refer to the record for that; you will find it all there upon the books.

Q. It is there among the other accounts, is it?—A. No accounts were regularly opened with them; but the books will show the names and amounts.

Q. But we would like to get the names from you, as a guide to us; otherwise we would have to look all over the books.—A. I think Mr. Carr kept a book in which all of these transactions could be seen at a glance.

Q. Does this book contain all the work of this kind done, both at the cabinet shop and the carpenter shop?—A. I think all of it—whatever was done for private parties.

Q. What was that book called?—A. I do not remember.

Q. State the names of any persons who have had stone-work done, if you know of any?—A. Some was done for Prescott Smith.

Q. Where was the work done that was done for General Jeffries?—A. At his house.

Q. Where was his house situated?—A. On Fourteenth street.

Q. The workmen employed at the carpenter shop went to his house to do the work?—A. Yes, sir.

Q. Did he ever pay for it?—A. I think he refunded the amount, sir.

Q. In that case the labor was charged at what price?—A. At the price paid by the Government.

Q. And the materials, how?—A. At the price paid by the Government.

By Mr. ELA:

Q. You do not undertake to say that the Government run a cabinet shop and a carpenter shop for the benefit of private individuals?—A. I do not think the individuals made anything; the work was more expensive to them than it would have been if they had had it done by private parties.

Q. Where was that work done for Mr. Smith?—A. At an office building for him, as general agent of the railroad here; it was done in that office.

Q. Do you remember any other persons for whom work was done, than those you have named?—A. Work was done for others, but I cannot give the names of any others.

Q. Was the work that was done for private parties done at the shop?—A. Either at the shop or at their private residences.

Q. What knowledge have you of such work having been done for other parties?—A. I made it my business generally to examine the daily reports and see what work was done, and what it cost; but my memory is not good enough to enable me to give the names of the persons.

By Mr. CHURCHILL:

Q. Can you give the committee any idea of the amount of work that was done for private parties at the cabinet shop and the carpenter shop; the aggregate?—A. I could not state it definitely.

Q. What sum can you name as an approximation?—A. I should think at a minimum it would be quite likely $10,000 for work of this kind.

By Mr. ELA:

Q. I see here an allegation in regard to keeping a horse; was a horse kept at the expense of the Government?—A. Yes, sir.

Q. For what was it used?—A. At the time when the extension of the north wing was in operation, it was used for carrying orders; the superintendent and the supervising architect were repeatedly called to various parts of the city, and a horse was deemed necessary.

Q. Is a horse kept there now?—A. I cannot say how it is now.

Q. What use would there be for one now?—A. I do not know.

Q. Do you think that there was any necessity for a horse to carry orders, when the extension was going on?—A. Yes, sir, there was then a necessity for it.

By Mr. CHURCHILL:

Q. Do you know anything of the Philadelphia bonded warehouse—of the original plans or estimates, and the work which has been done upon the building?—A. I know about the plans from the first to the third floor; since it reached that point I have not seen the work nor the plans.

Q. Who prepared the plans for that work, originally?—A. They were prepared at the office.

Q. Did you have anything to do with their preparation or with the estimate?—A. I had a little to do with their preparation.

Q. What was the original estimate?—A. I think it was $178,000.

Q. That was for the entire building?—A. Yes, sir.

Q. What size did you calculate for?—A. One hundred and seventy by seventy-three feet.

Q. When was that work commenced?—A. In 1867.

Q. Upon the plans for which these estimates were made that you speak of?—A. Yes, sir.

Q. Has the work been carried on according to those plans?—A. It was, up to the time I left the Department; since then I have not seen the building.

Q. What amount had been expended on the building when you last saw it?—A. I cannot state, positively. There had been a good deal more expended than had been calculated upon, partly on account of the difficulties encountered in the foundation.

Q. Was the expense of the foundation more than had been estimated?—A. A good deal more.

Q. What caused that increased expense?—A. On one end of the lot was the old Pennsylvania Bank building; and the removal of the foundations of that building occasioned an extraordinary amount of trouble and expense.

Q. Was that time and trouble necessarily expended?—A. I think it was: those old foundations had to be removed.

Q. How much was that increased expense beyond the original estimates?—A. The increase of cost on account of that excavation I think quite likely was not less than about $15,000.

Q. In what time should the building have been completed upon the plans adopted?—A. It could have been built in eighteen months.

Q. What is the state of the building now; what stage of erection has it reached?—A. I do not know.

Q. How has that work been done: by contract or by days' work?—A. It had been carried on by days' work up to the time when I last saw it; the iron work had been done by various parties.

Q. Had any part of the cost of erecting the building exceeded the estimate, except that of the foundation?—A. The cost of the iron work, I think, had been rather less than the estimate; but the cost of the brick work a little higher. The difference was really not great. It is generally the contingent expenses that mount up so fearfully when buildings are erected by days' work—especially when the work is delayed by failure of appropriation or any other cause.

Q. You are not aware of any very great increase of expense except that arising from the unexpected expense of the foundation?—A. No, sir.

By Mr. ELA:

Q. From your experience as an architect what is a fair percentage on the cost of a large building, for plans, clerkship, and superintendence? I mean for such buildings as the Government is in the habit of putting up?—A. The schedule by which architects go would allow 3 per cent. for superintendence, plans, and specifications. It is usual to charge for small buildings 5 per cent.

Q. That would include draughting, clerkship, and the superintendence of the building?—A. Yes, sir.

By Mr. CHURCHILL:

Q. Do you know of the marine hospital building at Chicago—the original plans and estimates, and the expense of the work?—A. You will find all that in the report of the Committee on Post Offices and Post Roads. I have nothing to say beyond what I said there.

Q. If I recollect rightly your testimony was limited simply to the statement that the original estimate of $132,000 ought to have put up a sufficient building——A. That was the strict wording of the appropriation at the time; the wording was that in no event should the cost exceed——

Q. Did you make any estimates upon that building?—A. Yes, sir.

Q. What was the cost of the building that you estimated for?—A. $300,000.

Q. Why did you estimate for so large a building?—A. It was not for me to change the plans, but to calculate how much the plans placed before me would cost.

Q. Who had prepared the plans?—A. They were prepared in the office.

Q. By whom?—A. Under Mr. Mullett's direction.

Q. The plans which he had prepared being accepted, what would be the necessary ex-

pense of the building?—A. The building, if carried out according to those plans, would, when completed, cost $300,000.

Q. Would it cost that if the work was economically done according to those plans with the same material and in the same style?—A. Yes, sir.

Q. Do I understand you to intimate that a building might have been erected there, sufficient for the purposes intended, for $132,000—the sum at which the original site was sold?—A. That is a very different question. What kind of building is required is a very different question from the question whether you could put up a certain building for $132,000.

Q. Then you do not pretend to say that a building could be put up for $132,000 that would have answered the purposes of a marine hospital?—A. I do not want to say anything about it at all; the determination of that is not the province of an architect.

Q. The act of Congress did not limit the expenditure to any particular sum?—A. Yes, sir, it did; the act of Congress was very particular.

Q. Did the act require that the old marine hospital should be sold and a new one erected, but that the cost of the new building should not exceed the cost of the old, but without naming any sum?—A. Yes, sir.

Q. And, as a matter of fact, the old site sold for $132.000?—A. Yes, sir.

Q. Was not that a very considerably less sum than it had been supposed the old site would realize?—A. No, sir; the old site and building cost together $57,000, but the property had risen in value so as to be worth much more than the original cost.

Q. Was it not anticipated that it would sell for more than it did?—A. I do not know as to that.

Q. Those plans of which you spoke, to cost $300,000 or more—were they made before or after the sale of the old site?—A. After.

Q. And before or after any further action was taken by Congress on the subject?—A. Before.

Q. Was it known what sum had been realized for the old building when these plans were prepared?—A. It was known.

Q. Was any effort made to prepare plans, the expense of which would be within the sum which had been realized by the sale of the old building?—A. No, sir.

Q. Why was not such an effort made?—A. It was considered that this sized building was needed. Mr. Mullett thought so, and the Secretary must have thought so, because he approved the plans.

Q. Then the plans which were prepared were prepared for such a building as it was supposed was necessary for a marine hospital at Chicago?—A. That was the case.

Q. Was any expenditure made upon the building until after the plans had been submitted to Congress, and a further appropriation asked for and obtained?—A. I don't think the plans ever were submitted to Congress.

Q. Were they ever submitted to any committee of Congress?—A. I do not know that they were, sir; I think only to the Secretary of the Treasury.

Q. Was not the attention of Congress called to the plans, and to the necessity of a larger expenditure than was provided for by the original act of Congress? Was not the attention of Congress called to it by the report of the Secretary before any money was expended on the new work?—A. Not that I know of, sir.

Q. Do you remember in what year the old site was sold?—A. In 1865.

Q. In what year was the work upon the new building commenced?—A. In 1867, I think.

Q. When was the site purchased for the new building?—A. In 1867.

Q. Do you know the price paid for the site of the new building?—A. I think $10,000.

Q. In what year were the plans for the new building prepared?—A. I think they were prepared, the first sketches, in 1866.

Q. And the estimates of expense?—A. The estimates, such as they were, showed that the expense would be not less than $300,000; but they were very rough estimates.

Q. By whose direction was this purchase made, and the work upon the new building commenced?—A. The purchase was made, of course, by the Secretary of the Treasury; Mr. Mullett, I think, negotiated for the land.

Q. Was the commencement of the erection made upon Mr. Mullett's order, or upon the order of the Secretary of the Treasury?—A. Upon Mr. Mullett's order.

Q. Independent of, or under the order of the Secretary of the Treasury?—A. After the plans are approved, there is hardly any need for a special order of the Secretary.

Q. When were the plans approved by the Secretary?—A. Early in 1867; before the purchase of the site.

Q. How soon was the erection commenced after the site had been purchased?—A. Some four months.

Q. How was that work carried on—by contract or by days' work?—A. By days' work.

Q. Entirely by days' work?—A. Yes, sir, at that time entirely so.

Q. Have you any means of comparing the expense, as it was by days' work, and what it would have been by contract, on that particular building?—A. I have not.

Q. Have you the means of making a comparison of the expense of work done by contract and days' work on any building of the Government, erected within the last five or six

years?—A. It is my opinion that the cost of doing such work by days' work is largely in excess of the cost of the same work done by responsible contractors.

Q. By what system of figuring do you arrive at that result?—A. To reduce it to figures is almost impossible.

Q. Upon what grounds do you base your objection to having work done by days' work?—A. There are several reasons. In the first place if you make a contract you assume a definite thing. To change it requires the assent of two parties; the result is a change cannot be made so readily as in the other case, where you have no other party checking your desire for changing, or objecting to it. This you will notice is quite a point; for the tendency of almost every architect is for constant changing, The very fact of a definite contract is a great check against this almost universal tendency of the profession.

Q. But with an architect who knows his mind from the beginning that objection would not exist?—A. You will find hardly one architect who is not given to changing his plans. This very fact of having a contractor whose interest it is to look to his bargain, is a good check on this tendency. Then if the Government does its work by days' work, you will find invariably three more foremen than are really needed. And furthermore, instead of pulling together, these men all pull against each other—a very serious drawback on any work. Again, if the Government attempts to do work by days' work, there are so many men who have a claim or insist that they have a claim on the Government for patronage; and in this way responsible places will be given to worthless men, and generally at higher prices than any contractor can afford to give. Again, the contractor has many means of obtaining his materials, and even his help, at cheaper rates than the Government possibly can. But it is very difficult, in fact impossible, to reduce these various drawbacks to figures. To be sure, you allow a contractor a certain margin for profits; but where there is fair competition among bidders, the profits are not generally so very great.

Q. Have you ever made any calculation as to the comparative cost of work done by contract, and by days' work?—A. I do not know that I have made any accurate calculation in connection with any particular building.

Q. What is your estimate of the difference?—A. It is very considerable; something like 50 per cent., I think.

Q. Who prepared the plans for the Madison court-house and post office?—A. They were prepared in the office under the supervision of Mr. Mullett.

Q. While you were in the office as assistant superintendent?—A. Yes, sir.

Q. Who made the estimates for that building?—A. I did.

Q. What were the original estimates?—A. I could not tell positively without referring to my books.

Q. What is the population of that town?—A. It was about 11,000 at that time.

Q. Do you remember the size of the building for which estimates were made?—A. It was very nearly the same as that at Springfield: I think 120 by 61 feet, but I will not be certain.

Q. What was the height?—A. Three stories and a basement.

Q. For what purposes were the different stories to be used?—A. The lower for a post office, the second for revenue offices and a land office, the third story for a court, I think. I believe a portion of the second story was also to be used for the court.

Q. How much had been done upon that building before you left the office of supervising architect?—A. I think the basement was built, and some stone-work was being cut—a very small amount, however.

Q. How did the work, so far as done, compare with the estimates which had been made?—A. I think it compared favorably with the estimates up to that time.

Q. That was being done by days' work, was it not?—A. Yes, sir.

Q. Do you know anything about the progress of the work since you left the office?—A. No, sir; I do not.

Q. Do you know of any matter in which, in your judgment, Mr. Mullett has failed to pursue the course which he believed would be for the advantage of the Government?—A. I have no doubt that his belief is that his system is the correct one; I never assumed anything else; he certainly acts on that belief.

Q. You differ with him in judgment; but have you ever seen anything which led you to believe that he was not pursuing a course that he deemed to be for the best advantage of the Government?—A. No, sir; I think he does what he thinks is for the advantage of the Government.

Q. In any of these matters, regarding the carpenter shop, the cabinet shop, &c., did you have any reason to suppose that he was intending that the persons for whom the work was done should have it without paying to the Government its full cost?—A. I could hardly suppose it, or he would not charge it to those parties; not only that, but the bills were actually sent them. If there was any lack, it was simply that the Government did not charge its 15 per cent.

By Mr. PHELPS:

Q. How did it happen that the Government went into that business?—A. Well, that is really hard to say.

Q. Were the hands idle?—A. No, sir; there was a sufficiency of work.

Q. Then I do not understand how the Government came to go into that business of doing cabinet work and carpenter work for these Senators and Representatives?—A. Well, I cannot tell; you had better inquire at these two houses here.

By Mr. ELA:

Q. From your experience as an architect, and from what you have seen of Government building, what would be the difference in the construction of public buildings, such as you have been talking about, under the superintendence of a good, efficient man, or of one who was inefficient? I mean by the days' work system?—A. Of course, under the days' work system, the difference can amount to quite a great deal. I have no doubt that, under an inefficient superintendent, the increased cost will be from 15 to 20 per cent.; perhaps more.

By Mr. MUSSEY:

Q. Are you sure you are correct in the dimensions which you gave of the Madison court-house?—A. I am not certain with regard to its dimensions.

Q. Are not the dimensions 115 by 60 feet?—A. I really do not recollect.

Q. In regard to the stone-cutters on Madison court-house, were they obtained on the spot, or sent for from the East?—A. That is more than I can tell.

Q. You were speaking of the contract system; do you know of any building, erected under the contract system by the Government, in which great changes were not made before they were completed?—A. Yes, sir.

Q. Mention one.—A. The Baltimore court-house was one. There was hardly any change made at all, until Mr. Rogers began to change it, and that change was trifling compared with the total amount of work. So long as I had superintendence of that work there was not a solitary change from the original plans.

Q. That is the only one that you think of, then?—A. There were several other cases where the changes amounted to very little.

Q. Do you know anything about the contractor on that building presenting a claim of $100,000 for extra work?—A. Yes, sir; but that was not relevant to the contract in itself.

Q. Was not that for extra work done on account of changes?—A. No, sir; it was simply from the fact that the building was erected during a period of war, instead of during a period of peace; it was not at all on account of changes.

Q. You spoke of the marine hospital building at Chicago; do you know how that sale was made—whether on time or for cash?—A. For cash.

[Mr. Mussey here explained that in the above case the purchaser was not to get possession of the property until a long time after the sale was made, and that, accordingly, the property sold for a great deal less than it would have done under ordinary circumstances. He read from the act of Congress authorizing the sale.]

Q. Did you assist in drawing up the report for Mr. Mullett, which report was finally laid before Congress, stating that a larger sum of money than $132,000 was required for the construction of a marine hospital at Chicago?

Mr. ELA. Is that material?

MR. MUSSEY. So far as it appears at present the work on the new building was not commenced until the attention of Congress was called to the fact that more money was wanted, and Mr. Oertly's testimony this morning seems to convey that idea, for he says that the old building was sold in 1865, and the new one commenced in 1867.

Mr. OERTLY. I do not remember that the attention of Congress was specially called to the fact.

Mr. MUSSEY. O, well, we will produce the report itself.

Q. I wish to ask whether, before work is commenced on any of these buildings, it has not been the custom of the Secretary to appoint a superintendent and a disbursing officer?—A. Yes, sir.

Q. That is the first step?—A. Yes, sir.

Q. And has not that designation be regarded as authorization to commence work?—A. Yes, sir.

Q. Do you know how long they were obliged to wait for the examination of the title to that property by the Attorney General?—A. I do not remember distinctly; I know that there was considerable delay.

Q. Do you know that a delay of four months was occasioned by that?—A. I do not know exactly how long the building was delayed on that account.

Q. In relation to the warehouse at Philadelphia, did I understand you to say that its dimensions were 170 by 73 feet?—A. As near as I can recollect.

Q. Please refresh your memory, and see whether you did not report the measurement in the first place 251 by 77 feet, which the office cut down to 247 feet in length by putting it 3 feet back from the street?—A. To give figures of buildings without referring to memoranda is a hard matter. I was under the impression that it was 170 feet long.

Q. When you made your estimates in regard to that building, did you not know that this old wall, old foundation, was there?—A. We knew it was there, but had not the slightest idea of the trouble and expense it would cost.

Q. And the expense of laying the foundation of the new buildings was owing to the difficulty in excavation on account of the foundation of the old building?—A. Yes, sir.

Q. Which had not been provided for in your estimate?—A. We did not provide for it in our estimate, because we could not foresee it.

Q. In regard to this furniture furnished to individuals, I think you said that $10,000 would be the minimum value; does that include the furniture and carpenter work both?—A. Yes, sir. The furniture alone would not reach that amount.

Q. Do you know whether Mr. Mullett was in favor of affording these facilities to private parties, or was it the action of the Secretary to a very considerable extent?—A. Quite likely both; but, as I said awhile ago, the proper place to inquire would be right here.

Q. You speak of a desk being made for Senator Pomeroy and one for Senator Sumner; do you know whether those were ever paid for or not?—A. I know that Senator Sumner paid for his; about Senator Pomeroy's I cannot say; he did not pay for it during my time. I know that the bill for it was presented to him.

Q. As to the work done for Mr. Smith, do you not know that the men who did that work were dropped from the Government pay-rolls, and were paid by Mr. Smith personally for that work?—A. I did not know it.

Q. You were speaking of the comparative cost of the photographic and lithographic processes of preparing duplicate drawings of plans; can you give, with any accuracy, a statement of the expense of the two processes?

Mr. ELA. It seems to me that is not at all material; the cost of lithographing or photographing is of no account any way.

Mr. MUSSEY. It was a part of the examination.

WITNESS. If you require a large number of copies, the lithographic process is cheaper; if the number of copies is limited, say a half dozen or fifty, photographing is cheaper. There may be a point, some certain number, where the cost would be just the same in both cases. You will find the cost of all the photographing and lithographing that has been done on the records, and can make your own comparisons. The photographic establishments do such an extensive business of every kind——

By Mr. ELA:

Q. What do you mean by business of every kind?—A. Taking views of public buildings, taking portraits, copying maps for the War Department, &c. They do a great deal more work and a great many other kinds of work than the mere copying of drawings.

By Mr. CHURCHILL:

Q. Have you any idea of the comparative cost of having this work done by a photographic establishment at the Treasury and getting it done at private establishments?—A. I could not give any opinion on that point.

By Mr. MUSSEY:

Q. Did you say that you do not know on what terms those roofs were put on?—A. I believe I did.

Q. Do you know what royalty was paid?—A. No royalty was paid in my time.

By Mr. ELA:

Q. Do you know the cost of slating per square foot?—A. That depends entirely on the kind of slate. If very heavy and thick it costs three times as much as ordinary slate.

Q. What is the cost of the slate like that upon the Treasury Building?—A. I do not recollect exactly; but I will furnish you the figures if you desire them.

The witness was requested to furnish them.

By Mr. CHURCHILL:

Q. What was the expense of the slating on the Treasury Building compared with that on ordinary buildings?—A. More than triple.

Q. Do you know how long a slate roof lasts in comparison with copper and iron?—A. If well selected I would prefer a slate roof to any kind of metallic roof, excepting lead.

Q. Do you deem lead better than copper?—A. Oh, yes, sir; but look at the expense. You could not use less than six-pound lead, while one-and-a-quarter-pound copper will answer all purposes. Lead roofs are known to have lasted a great length of time.

Q. How long will a copper roof last?—A. Well attended to?

Q. With such attention as is ordinarily given to the roofs of buildings.—A. About one hundred and fifty years, it is estimated.

Q. And a slate roof?—A. A well-selected slate roof is almost indestructible. It is the framework which gives out and destroys the roof.

Q. Do you know anything of a change in the approach to the south front of the Treasury Department?—A. No, sir, no more than any one would from observing it when passing by.

Q. Have you anything to say with regard to its architectural or ornamental value as compared with the former work?—A. I do not know that I have. It is merely a matter of taste. The former platform was a very good one; one of the most substantial and best

built jobs of the kind I have ever seen. I thought it was a pity to remove it. With regard to the appearance of the new work, that is entirely a matter of taste.

Q. Have you any criticism to make upon it at all?—A. Well, not upon the platform proper; the platform proper has a more pleasing appearance to-day than the one on the north has. But the defective point is in the south railing and gate-post. There is a perfect confusion of lines—perpendicular, horizontal, and slanting at every inclination—which detracts very much from the effect. But the balustrade, especially at this time of year, with its green backgrounds, has something pleasing to me. But I think the effect has been arrived at with unnecessary cost.

Q. Do you know what the cost has been?—A. No, sir.

WASHINGTON, D. C., *June* 18, 1870.

Mr. GEORGE C. RICE was duly sworn and examined.

By the CHAIRMAN:

Question. What official position do you hold?—Answer. General superintendent of the Treasury buildings.

Q. How long have you held that position?—A. Since the 17th of March, 1869.

A. Is there a patent lock which you have put on or used in any number in the Treasury Building within the last year?—A. Not that I have used. There is a patent lock, called the Johnson lock, used for the files of the Register's office, placed there by the Supervising Architect. They were on hand when I entered upon duty.

Q. Do you know whether Mr. Mullett now has, or ever had, any interest or ownership in the patent?—A. I do not.

Q. Have you any information on the subject?—A. Only what I got from the machinist, who said that Mr. Chambers went to him one day and asked him if he would examine two locks that were to be used by the Internal Revenue, and he told him he would if the committee sent for him. He went up and examined the lock, and he preferred another lock to this Johnson lock, which he considered valueless. The other lock—the tumbler lock—he considered the best that is manufactured.

Q. From whom does the Johnson lock take its name?—A. The Johnson Lock Company, New York.

Q. Do you know whose patent is used in the construction of the lock?—A. I could not say.

[Witness produced the key of the lock, saying it was the key of the lock used in his own office.]

Q. Have you any information of any directions being given by Mr. Mullett in regard to the use of this lock?—A. None at all; only that they were placed on the files of the Register's office.

Q. Was that done before or after you became superintendent of the building?—A. Afterward.

Q. What number were placed upon those files?—A. Something like three hundred or over.

Q. Have you any knowledge of the cost of this lock?—A. I understand the cost for the locks only, without the expense of placing them upon the cases, was something like $5 each. I am not confident of that; it is simply a hearsay.

Q. Are you a judge of locks yourself?—A. I do not pretend to be. I have seen a machinist take five steel wires and pick the lock by operating with his thumb and fingers, and turning the lock just as I would with the key. I do not know that I could do it; I never tried it. He is a good machinist, and understands locks. He has never had any difficulty in opening any lock on the cases there.

Q. Who were the men who put the locks on the files of the Register's office?—A. I did not know the men. I saw them at work, and knew they were working for Mr. Mullett at the time.

Q. Were there other locks of that pattern on hand besides those that were used?—A. Not exactly of that kind; they were of that patent—of the same principle precisely. They were the Johnson lock.

Q. What number of locks of that patent are in use about the Treasury building, so far as you are able to judge?—A. I think there are some 300 or 400 in Mr. McCartee's Bureau. They are placed in different parts of the building. I would not pretend to say how many in all. There were several locks on hand of that kind when I went into the office; and I afterward refused to purchase when they sent a requisition on me for General Spinner's Bureau.

Q. Who made that requisition upon you?—A. General Spinner. I refused to furnish them. Mr. Chambers (or Chamberlain, I am not confident about the name) came to me with the requisition, or with the messenger who had the requisition, and I told him the lock was worthless, and I would not have anything to do with it.

Q. Do you know how the requisition was brought about?—A. That I cannot tell; but I pay no attention to such requisitions.

Q. Do you know by whose influence these locks were procured, so far as they have been used about the building?—A. No, sir.

Q. Have you any information upon the subject at all?—A. Only what the machinist told me in relation to the matter at the time he examined the locks for the Internal Revenue.

Q. What was that?—A. He said that Mr. Chambers told him that Mr. Mullett was interested in the lock; how far, he did not pretend to say; but that Mr. Mullett had made an improvement on the lock, for which he received $1,000, and that he asked $2,000 for the improvement; but that he had settled another way, he did not say how, but leaving the impression upon the mind of the machinist that it was in the form of a royalty. That was what he told me; and he stated that he would be qualified to testify to that. He did not say that the agent stated positively that Mr. Mullett did have a royalty; but that he talked in such a manner as to leave that impression on his mind.

Q. Are there as many as 1,000 of these locks in different parts of the building?—A. I think so, as many as that of my own knowledge: and there are many places in the building where I do not go.

Q. Have you ever had any conversation with Mr. Mullett as to the value of this lock, or the advisability of its use?—A. No, sir; Mr. Mullett and I have not spoken with each other for some time. He has no particular fancy for me, and does not talk to me, and, of course, I do not talk to him.

Q. Does this Chambers, of whom you speak as the agent for introducing this lock, reside in Washington?—A. No, sir; I think he resides in New York. That was what he told me when he came with the order or requisition, which was the only time I ever saw him.

Q. He came, then, from General Spinner's office?—A. Yes, sir, or about that time; or at any rate I had the requisition before me when he came in. I would not say whether he came with the messenger or before. It was about six months ago.

Q. Have any of these locks been used in the Treasury building since that time?—A. None, only those on hand. Yes; there have been some in Mr. McCartee's Bureau since that time.

Q. Was that under your charge?—A. No, sir; it is under the charge of Mr. Mullett.

Q. Did you ever give your opinion to Mr. Mullett as to the virtue of the lock?—A. I have spoken of it generally, about the building, but not to Mr. Mullett personally. When this matter came up, of obtaining them for the files of the cases in the Register's office, I objected to it, because I thought there was no necessity; but that was a mere matter of opinion.

Q. Have you any control of the matter of procuring furniture for the rooms in the Treasury building, and if so, what?—A. In fact, all of it comes under my charge. The Secretary requires me to order the furniture with his consent, which I have to order through Mr. Mullett, for such things as are of much expense, like desks, cases, &c.; for ordinary furniture, like a washstand, I might go and apply for it; for anything valuable I am required to make my requisition on Mr. Mullett for it. I objected to allowing Mr. Mullett to dictate what kind of furniture was necessary just after I went there. I thought he was making the furniture too expensive for the Department, and I objected to it without his first giving me an estimate of the cost. I worked upon that until I received an order from the Secretary requiring Mr. Mullett to give an estimate for anything of importance. He did not think it necessary to give orders for small things, but when a fine thing was required then I wrote to Mr. Mullett to give an estimate; that has been done since the 16th of March last. Before that time I did not ask for an estimate. In some instances there have been a few desks which the Secretary authorized me to go outside and get, which I did.

Q. Have you any connection with the cabinet shop, except as you make a requisition upon Mr. Mullett for a particular article?—A. No, sir.

Q. Will you state how the cost of articles which were furnished you from the cabinet shop upon your requisition compared with the cost of similar articles which you purchased outside?—A. I should think there was a difference of somewhere in the neighborhood of 25 per cent. But that was not the great difference between us. If I went outside and got an article for temporary use, I was not very particular about the quality; but if I wanted something which was to be a permanent thing, I considered then that I had about 25 per cent. advantage in purchasing outside. But the reason why I objected to the furniture being made in that shop, under the old plan, was, that if I bought a piece of ordinary furniture, which would answer the purpose, I had no control over it. I had to take such a piece as the workmen would make. For instance, if I wanted a case which I thought should be worth only $200 or $300, they could make one worth as many thousand dollars. I did not care where it was manufactured; I only wanted to control the price.

Q. Then the only saving that you make since the 16th of March, compared with that before, is, not that you get the same quality of work cheaper, but that you get a cheaper article?—A. I consider that I gain about 25 per cent.

Q. Do you get an article of the same quality for that difference in price?—A. I do.

Q. You still continue to make your requisitions upon the shop?—A. I am compelled to do that, unless I get permission to go outside.

Q. You have a discretion as to the cost of the article?—A. Yes; I can either make a requisition for it or not, as I please.

Q. Are you obliged to get an order from the Secretary before you can purchase outside?—A. Yes, sir; I have to take an order. He generally gives me a verbal order. I generally

take the officer that wants the article to him, and the Secretary then authorizes me to go outside and purchase as I think best.

Q. Have you compared the articles in the Department, which have been made at the shops, with the articles of a similar character which have been made heretofore by contract with the Department, as to the workmanship, and as to the comparative cost?—A. I did this when the articles were made; and I have taken mechanics with me and showed them the furniture, and have taken the dimensions of the furniture and then asked an estimate upon a similar piece of work, when I wanted something made of a similar character; and they were to guarantee as good work.

Q. How would their estimates compare?—A. They were in the neighborhood of 25 per cent. less. Mr. Mullett admited to the Secretary, himself, that there was about that difference.

Q. When was that admission made?—A. I suppose it was eight or nine months since.

Q. In what respect was there any advantage to compensate for this loss?—A. The shop had to keep at work for other work; it was necessary to keep the men at work.

Q. For what other work was it necessary to keep the shop up?—A. For the permanent work about the building, with which I had nothing to do. They were finishing off the north wing, putting up bannisters, &c.; and then it would be constant work for the men instead of letting them go idle, and he thought there was no doubt the work would be all well done. He thought the same kind of work might be slighted by others.

Q. Is not the permanent work now completed and out of the way?—A. Yes, sir.

Q. What work is there now for the cabinet shop, with the exception of this furniture?—A. There are constantly some little repairs and alterations, changing the rooms for certain purposes, which would require a few mechanics.

Q. Are there not a good many articles of furniture, which are expensive, about the Treasury Department, made before you became superintendent there, and which you understand to have been made by contract with parties outside?—A. Yes, sir.

Q. Are not the articles which have been made at the cabinet shop connected with the Treasury Department, as a general thing, more substantial than those made by contract?—A. Yes, sir.

Q. As a matter of fact, have they not been quite as cheap as the prices you have learned were paid for others?—A. Yes, sir; I think so.

By Mr. ELA:

Q. Have you ever understood that those things made on contract were given out in favoritism?—A. That is common conversation in the Department. That is always the case, if a man happens to get a job.

By Mr. GRISWOLD:

Q. There are some articles manufactured outside which are not worth 25 per cent. more than those made inside?—A. Yes, sir; and there are some which I think are comparatively worthless. I have examined some of them, and I would not give 25 per cent. of the cost of them. There are some cases which are scarcely worth a quarter what was paid for them.

Q. That is no argument in favor of the Government's doing the work?—A. I do not care about the Government's doing the work; but I want to control the cost of it. If I think a low-priced article will do in place of a high-priced one, I want the liberty to get the cheaper one. One that cost $100 would be just as good, in some cases, as one that cost $500.

Q. Is it not true that you cannot go out and buy such an article as you need, for a particular place, sometimes?—A. Yes, sir; there are many that are termed permanent, that cannot be changed from one room to another.

Q. If that shop was abandoned the result would be that somebody would have to go out and contract for all the articles wanted?—A. Yes, sir; that is the fact. To go back again to the commencement, I would state this: when I first objected, to the Secretary, to the furniture being made inside, because I could not control the price, then Mr. Mullett stated that by the 1st of July last he would be ready to give up the shop; and then I could take the few mechanics and put in the shop and have control of them myself. And the Secretary agreed that it should be done in that way. And then, afterward, they determined to continue the shop; and I went on the 1st day of July to know whether it was to be done as agreed, and the Secretary sent me to Mr. Mullett, who stated that he could not give up the shop. And the Secretary said that he should go on. I did not care anything about having it under my control, only that I might control the price of the article. I did not care who made it.

Q. That is settled now, and you do not care about controlling the men?—A. I do not; I do not care who controls them, so that the work is done.

WASHINGTON, D. C., *June* 25, 1870.

J. L. CHAMBERS sworn by the Chairman and examined.

By Mr. MUSSEY:

Question. State your residence and occupation?—Answer. I am secretary of the Johnson Rotary Lock Company, of New York.

Q. Are you acquainted with A. B. Mullett, of the Treasury Department?—A. Yes, sir.
Q. Has he any interest in the Johnson rotary lock, to your knowledge?—A. He has not.
Q. Did he make any improvement in that lock: and if so what was it?—A. He patented an invention, which was applied to our lock afterward by purchase from him.
Q. How much did he receive for that?—A. One thousand dollars.
Q. Is that all that he has received?—A. Yes, sir.
Q. In any manner?—A. In any manner.
Q. Did you ever say to the machinsit of Mr. Rice, of the Treasury, that Mr. Mullett demanded more than you gave, and that you made it up to him in another way?—No, sir; I do not know the machinist at all; nothing about him; never heard of him that I know of. But I could not have said that, because it was not a fact.
Q. Do you know Mr. William Edgerton?—A. He is our book-keeper.
Q. Please state whether that affidavit is in his hand-writing. [Witness examined the paper handed to him].—A. Yes, sir.
Q. When was the payment of this $1,000 to which you refer made?—A. I think some two or three years ago. I cannot say exactly.

By the CHAIRMAN:

Q. Were you present when that affidavit was sworn to by Mr. Edgerton?—A. Yes, sir.
Q. State the character of the improvement for which Mr. Mullett was paid?—A. It is by such a form of the key that when it is placed in the lock it cannot be withdrawn again without locking the lock. It was applied to our drawers and everything in our use. We thought it an important thing for us, and that it was worth the money.
Q. When was the purchase made of Mr. Mullett?—A. February 9, 1867.
Q. Who made the purchase in behalf of the company?—A. The board of directors: Henry Smith, Mr. Tweed, and Thurlow Weed.
Q. Where was the bargain made; in New York or here?—A. It was made in New York. He came on there and said he had the improvement, which we could have for $2,000. I said it was not worth so much. We had quite an argument over it. Mr. Smith said, "I am willing to pay $1,000 for it." Some one seconded the motion, and $1,000 was paid.
Q. Were you present at the time?—A. Yes, sir; I was secretary at the time.
Q. Was the purchase the purchase of the entire interest in the patent?—A. Yes, sir; it was assigned to us.
Q. How long before that had the patent been secured?—A. Probably two weeks—but a short time.
Q. How long has the Johnson Rotary Lock Company been in existence?—A. Since 1862, I think.
Q. Have you been secretary all that time?—A. No, sir; since 1865.
Q. What sales has your company made to the Government here?—A. We have made very large sales to the Navy, War, and Treasury Departments, the Patent Office—well, all around, to all the Departments and the Post Office.
Q How long since the earliest sales were made to the Departments here?—A. I think in the early part or the middle of 1866.
Q. To whom were the first sales made?—A. The first were made by Mr. Rollins, I think, Commissioner of Internal Revenue. We sold him over 2,000 at one time.
Q. To what other Departments in succession?—A. The locks were then sold to Mr. Mc———, of the Treasury Department.
Q. When were the sales first made to him?—A. About the same time, in 1866. I am here often, and hardly missed two weeks for the last four years that I did not come here.
Q. When were the first sales to Mr. Mullett?—A. The first sales to Mr. Mullett directly were oon after the award was given to our lock, as the best among several entered in competition; mong others the mortise lock.
Q. When was that?—A. It was in 1866, I think. I cannot state exactly.
Q. Was it before or after the sale to Mr. Mullett of this lock?—A. It was before. As far as regards the purchases made by Mr. Mullett, I do not think that where he has had the selectionour sales have amounted to 2,000, instead of 3,000 or 4,000. The goods have been ordered by the chiefs of divisions, Mr. Spinner, and others. Of course, these had to go through Mr. Mullett.
Q. Had he a right to overrule and control the matter?—A. Yes, sir; he could check it and get what he thought desirable.
Q. At the time of the purchase of the interest in the patent was anything said as to the purchasing of your lock from the company for the Treasury Department?—A. No, sir; we did not think much of the invention at first; and we did not put the lock anywhere here but at the Post Office Department, and then we introduced it at the Treasury Department. Mr. Spinner's Bureau was the only place where we put them on at first.
Q. You say Mr. Mullett's price was $2,000?—A. Yes, sir.
Q. But he took $1,000?—A. Yes, sir.
Q. What was the inducement for that large reduction in his price?—A. We would not give him any more.
Q. Has he made any use of his patent himself in attempting to use it in connection with

any other lock?—A. I could not tell. Whether he tried to sell to some one else before he tried to sell to me I do not know. I saw that it was useful to me, and therefore bought it.

Q. Did you ever have any conversation with any person of the kind suggested by Mr. Mussey's question; that is, intimating that Mr. Mullett, not being entirely satisfied with the price you paid him, it was to be made up in some other way?—A. No, sir; never.

Q. Have you ever understood, from any source, that Mr. Mullett was to have any share whatever in the proceeds of the prices paid for sales made by your company for the locks sold to the Government?—A. Not until the intimation was made by Mr. Mussey himself, who told me that some one had said so before the committee.

Q Was that the first you had heard of it?—A. Yes, sir.

Q. Have you heard it intimated that he was to have a commission for purchases made by the Government?—A. No, sir; not in any manner, neither directly nor indirectly.

Q. Who are the leading stockholders in your company?—A. Henry Smith is president; William M. Tweed is vice-president; and Thurlow Weed.

WASHINGTON, *June* 15, 1870.

A. G. MILLS sworn and examined.

By the CHAIRMAN:

Question. What is your residence and occupation?—Answer. I reside in Washington; I am chief clerk in the office of the Supervising Architect.

Q. How long have you had that position?—A. Since July 1, 1869. I acted in that capacity two months prior to that time.

Q. Were you in any way connected with the office before that time?—A. Yes, sir; since August, 1866, I had acted as clerk on special business.

Q. Have you calculated the percentage of profit, including royalty, of the Vaux's Patent Anti-freezing Pipe and Roofing Company on their work done for the Treasury Department within the last year?—A. Yes, sir; for so much of it as has been completed.

Q. Is this a statement of the result of your calculations? [Handing a paper to witness.]

Statement exhibiting the actual percentage paid by the Treasury Department upon the net cost of materials and labor supplied by the Vaux Patent Anti-freezing Pipe and Roofing Company, for putting copper roofing and guttering on the public buildings herein specified, as shown by the vouchers for payment to that company.

United States custom-house at Cairo, Illinois:

Net cost of material and labor supplied		$4,888 28
Contractor's profit, under agreement, 15 per cent. thereon	$733 25	
Royalty paid to the patentee, 2,709½ square feet of roofing, at 10 cents per foot	270 95	
		1,004 20
Aggregate amount paid by the United States		5,892 48

Or,

Net cost of materials and labor, as above	$4,888 28
Plus $20\frac{6320}{11639}$ per centum thereon	1,004 20
Aggregate as above	5,892 48

United States custom-house at Richmond, Virginia:

Net cost of materials and labor			$7,603 75
Contractor's profit, as in the preceding case, 15 per cent		$1,140 56	
Royalty on roofing as above, 8,650 square feet, at 10 cents	$865 00		
Royalty on pipe, 1,122 feet, at 10 cents	112 20		
		977 20	
			2,117 76
Aggregate cost to the United States			9,721 51

Or,

Actual cost of materials and labor	$7,603 75
Plus $27\frac{28899}{30415}$ per centum thereon	2,117 76
Aggregate as above	9,721 51

United States court-house at Madison, Wisconsin:

Net cost of materials and labor		$8,496 16
Contractor's profit, 15 per centum thereon	$1,274 42	
Royalty on roofing 7,223 square feet, at 10 cents	722 30	
		1,996 72
Aggregate cost to the United States		10,492 88

Or,

Net cost of materials and labor	$8,496 16
Plus $23\frac{26627}{53101}$ per centum thereon	1,996 72
Aggregate as above	10,492 88

United States custom-house at Portsmouth, New Hampshire:

Net cost of materials and labor		$5,996 29
Contractor's profit, 15 per centum thereon	$899 44	
Royalty on roofing, 6,750 square feet, at 10 cents	675 00	
		1,574 44
Aggregate cost to the United States		7,570 73

Or,

Net cost of materials and labor	$5,996 29
Plus $26\frac{1540 46}{599629}$ per centum thereon	1,574 44
Aggregate as above	7,570 73

Des Moines, Iowa, court-house:

Net cost of materials and labor		$6,912 04
Contractor's profit, 15 per centum thereon	$1,036 81	
Royalty on roofing, 7,588 square feet, at 10 cents	758 80	
		1 795 61
Aggregate cost to the United States		8,707 65

Or,

Actual cost of materials and labor	$6,912 04
Plus $25\frac{163000}{172801}$ per centum thereon	1,795 61
Aggregate as above	8,707 65

Marine hospital at Portland, Maine:

Net cost of materials and labor		$5,888 38
Contractor's profit, 15 per centum thereon	$883 25	
Royalty on roofing, 9,158 square feet, at 10 cents	915 80	
		1,799 05
Aggregate cost to the United States		7,687 43

Or,

Actual cost of materials and labor	$5,888 38
Plus $30\frac{162680}{294419}$ per centum thereon	1,799 05
Aggregate as above	7,687 43

Custom-house at Portland, Maine:

Net cost of materials and labor			$5,559 15
Contractor's profit, 15 per centum thereon		$833 87	
Royalty on roofing, 1,811 square feet, at 10 cents	$181 10		
Royalty on pipe, 936 feet, at 10 cents	93 60		
		274 70	
			1,108 57
Aggregate cost to the United States			6,667 72

Or,		
Actual cost of materials and labor		$5,559 15
Plus $19\frac{104663}{111183}$ per centum thereon		1,108 57
Aggregate as above		6,667 72

Court-house and post-office at Portland, Maine:

Net cost of materials and labor			$2,934 36
Contractor's percentage, 15 per cent		$440 14	
Royalty on roofing, 2,455 square feet, at 10 cents	$245 50		
Royalty on pipe, 640 feet, at 10 cents	64 00		
		309 50	
			749 64
Aggregate cost to the United States			3,684 00

Or,	
Actual cost of materials and labor	$2,934 36
Plus $25\frac{13375}{24453}$ per centum	749 64
Aggregate as above	3,684 00

The average percentage paid on the cost of the materials and labor for the works herein specified is 25 per centum.

A. Yes, sir; the paper I hold in my hand I believe to be a correct statement of such percentage.

Q. Has any work been done for private parties at the cabinet or carpenter shops connected with the office of the Supervising Architect, or by the workmen employed therein, since you became acting chief clerk?—A. There has none to my knowledge.

Q. At what time was the doing of such work stopped and by whom?—A. Shortly after Mr. Boutwell became Secretary of the Treasury, by order of the Supervising Architect, under the instructions, as I am informed, of the Secretary of the Treasury.

Q. And since that time, as far as you are informed, has there been any work done for private parties at those shops?—A. There has not. It may be proper to refer to a very small item of work done by an employé of the Treasury for the chief clerk of the Department, Mr. West, but a matter that involved no expense to the Government. Some two or three years ago one of the workmen fixed the chimneys at the residence of the chief clerk; they became deranged in some way, and the chief clerk was anxious to have the same man who had done the work originally make the repairs. The work was paid for by Mr. West, as I understood, and no time was lost to the Government; it was in no way any expense to the Government. The work occupied only an hour or two. I might add, that for that work I alone am responsible; it was a small affair, I know, but I wished to be accurate, so I mentioned it.

Q. Before March, 1869, was work done at those shops for private parties?—A. I believe there was.

Q. What evidence have you on the subject; have you, as chief clerk, possession of any books of the office which bear evidence of work having been done for private parties, or what was the course pursued in regard to such work?—A. The cost of the work was charged to the parties for whom the work was done, as I am informed. I cannot state from my own knowledge that any work was done prior to my entering upon the duties of chief clerk, as it was a matter with which I had no connection up to that time.

Q. Do the books show this work to have been charged and paid for by the parties for whom it was done?—A. The books which I have examined do not in all cases bear evidence of payment.

Q. Have you a statement of accounts that are yet unsettled?—A. Yes, sir; I have here a list containing the names of persons for whom work was done, with the word "paid" written in pencil opposite those who, as it appears from the books, have paid for the work done for them. I know nothing personally about the matter; the list was furnished me by Mr. Steinmetz, assistant superintendent; he informs me that it embraces the names of all parties for whom private work has been done who have not yet paid for the same:

Memorandum of sundry unpaid bills in favor of the Treasury Extension, presented since April 5, 1869, *requesting payment of same to Thomas J. Hobbs, Esq., disbursing clerk, Treasury Department:*

Hon. William Sprague	$47 71
Hon. Montgomery Blair (Paid.)	122 88
George E. Baker, disbursing clerk, State Department	15 62
Office Comptroller of Currency (Paid.)	122 40

M. G. Emery & Co	(Paid.)	$80 18
John H. Ridgway		76 33
B. Oertly	(Paid.)	61 89
Dr. J. C. Duhamel		30 35
Brigadier General N. Michler	(Paid.)	225 25
George O Evans		240 66
William H. West	(Paid.)	41 47
S P. Brown	(Paid.)	18 00
George B. McCartee	(Paid.)	3 25
A. B. Mullett	(Paid.)	57 31
J. C. Rankin		12 88
S. F. Carr		13 91
H. S. Safford		14 05
W. G. Steinmetz		4 96
Hon. William Johnston		102 37
James Davis		37 10
William Slade		91 32
James L. Thomas		75 00
H. R. Hulburd		50 00
Comptroller of Currency	(Paid.)	25 00
Total		1,569 89

Q. Do you know where Mr. Steinmetz obtained this account?—A. From an examination of the records under his charge, and from the disbursing clerk who makes disbursements of the money, and to whom payment for private work is made. I took this paper to the disbursing clerk after it was handed me by Mr. Steinmetz, and asked him if it was correct; he looked over it and said he believed it to be correct.

Q. Who made this list in the first place?—A. Mr. Steinmetz's clerk.

Q. From books in his possession or charge?—A. I do not know from what source.

Q. Have you compared it with the books in your possession to know whether or not it agrees with them?—A. No, sir.

Q. As chief clerk you have possession of the account books of the Supervising Architect of the Treasury?—A. Yes, sir.

Q. And have you not compared this list with the books in your possession? Do you know whether or not it agrees with the books in your possession?—A. I have not.

Q. On the margin of that account there are certain items against which the word "paid" is written in pencil; where did you get the information in regard to those accounts having been paid?—A. When the list was made up, Mr. Steinmetz took it to the disbursing clerk and he marked those accounts in pencil as having been paid.

Q. Please state the method by which orders for furniture are made in the Treasury Department, and the accounts therefor settled.—A. When the head of a bureau wishes an article of furniture made for the use of his office he makes a requisition for it on the General Superintendent of the Treasury Building; the Superintendent, after satisfying himself of the necessity or propriety of procuring the article for the use of that office, makes a requisition for it on the Supervising Architect. The Supervising Architect, if he sees nothing improper in the requisition, directs Mr. Steinmetz, the immediate superintendent of the shops, to make the article. The article is then made in the shop, the foreman of the shop keeping an accurate account of the materials and the labor, which account appears in the reports rendered daily.

Q Does the superintendent of the shop charge to each separate article which is being made in the shop the amount of time employed upon it, and the amount of material used in its construction?—A. He does. When the article is finished it is taken by men employed in the shop to the office for whose use it is designed; and at the end of the month the superintendent of the shop reports to the office of the Supervising Architect the cost of the material and labor of all work done in the shop during the month. Thereupon a bill is made up based upon that report and presented to the Superintendent of the building for payment. Only those articles which have been completed and delivered are so charged; no charge is made for those which remain as yet unfinished. The bill thus presented is, after examination by him, referred to the accounting officers for examination and settlement, and the amount found to be due carried by counter-warrant from the appropriation for furniture for the Treasury building to the credit of the appropriation for alterations of the Treasury building, or Treasury extension.

Q. Is the account, when presented by the office of the Supervising Architect to the Superintendent of the building for settlement, referred by him at once to the accounting officers for examination and settlement, or does he take any preliminary steps to ascertain the correctness of the account as rendered by his office?—A. He has to satisfy himself of its correctness: that the article has been furnished the officer who makes the requisition.

Q. Satisfy himself in what way?—A. In any way he can; sometimes by personal inspection, sometimes by subordinates examining into the matter. He obtains the signature

of the bureau officer, or some responsible clerk, that the article has been received, and that receipt the Superintendent places on file in his office.

Q. Then, before he refers the account of your office for work for settlement, he obtains from the office of the Bureau which originally made the requisition the receipt of its head or chief clerk that the article has been received?—A. That is the regular course.

Q. But with that you personally have nothing to do?—A. No, sir; it is their business.

Q. Does your office take any receipt from the officer for whom the article was ordered that it was delivered to him?—A. None whatever; we have nothing to do with that officer, unless it be to take directions as to the manner in which work should be done.

Q. The article is sent directly from the shop to the Bureau for which it was ordered?—A. Yes, sir, usually; that is simply a matter of accommodation to the Superintendent. The regular course would be to leave it at the office of the Superintendent, but if the article were a heavy case, or something of that sort, that might greatly incommode the Superintendent, it is taken directly to the place for which it is intended.

Q. As a matter of fact is it not proper to take the receipt of that officer?—A. I never thought there was any necessity for it, nor do I think it would be proper to require such officer to receipt to our office, as he obtains the article from the Superintendent and gives him a receipt for it.

Q. Nothing of that kind is done, at any rate?—A. No, sir.

WASHINGTON, D. C., *June* 29, 1870.

A. G. MILLS recalled.

By the CHAIRMAN:

Question. Have you brought the statement with reference to the private work done at the workshops under the charge of the Supervising Architect of the Treasury, which you were requested to have prepared?—Answer. I have. (Producing it.)

Q. Is there anything in it that needs explanation?—A. There are four accounts here, in which balances still appear due, and I will make such explanation as I can concerning them. The first is a charge against William Brown for shoeing a horse. The work was performed December 21, 1868, and the charge is $1 29. As nearly as I can ascertain. that man was at the time in the employ of the Treasury extension, and Mr. Steinmetz has been unable to find him recently in order to collect the bill; but he says he has no doubt he can find him.

Q. Have you a blacksmith shop connected with the Treasury extension?—A. Yes, sir, it has been used as long as I have been connected with the office. It was used at the time we were building the north wing of the Treasury, and also. I believe, when the west wing was being built. It was used for shoeing horses, sharpening tools, and preparing the iron work to be put in place in the building.

Q. Is that shop yet kept up?—A. I think so.

Q. Have you any knowledge as to how many persons are employed in it?—A. No, sir, I have not.

The next is a bill of seven cents, due on the account of Hon. W. H. Seward. It appears that the whole bill of $21 77 was transmitted to Mr. Seward, and that he at once sent a draft for $21 70. It is presumed that he made an error of seven cents in writing the draft.

The next is a charge of $30 35 against a person by the name of W. J. C. Duhamel. I understand that he was a practicing physician in this city, and was for a time, I believe, the physician to President Johnson; at all events, he was in some way connected with the White House. Efforts were made to procure the payment of this bill, but without success. It is entered here as a bill for repairing and painting buggy. He undoubtedly had that done there through his connection with the White House.

There is one other item which might not be understood standing by itself. It is a charge of $240 66 against George O. Evans & Co. It is entered for experimental gas-works for Treasury building. This company desired to make a contract for supplying the Treasury building with gas, and the Secretary of the Treasury, Mr. McCulloch, was disposed to allow them to try the experiment, provided it would not be expensive to the Government. Under the agreement, as I am informed, the Treasury Department was to erect a building for them suitable for them to put in their apparatus, and it did so. The gas was actually introduced into a portion of the Treasury building. The experiment, as I understand, proved a failure, and the Government did not make a permanent contract with that company for the supply of gas. There has been no final settlement with the company as to the difference between the price of the gas furnished and the work performed for them in putting up this building; but the building, which is worth $500 or $600, still remains on the ground, and we are now using it as a shop, and have it as a set-off to the bill of $240 66 until such time as a final settlement may be made. These are the only accounts which remain unbalanced.

Q. Have the others all been paid?—A. The others have all been paid in full.

Q. That statement shows all the work ever done for private parties at any of the shops connected with the Treasury Department, while Mr. Mullett has been Supervising Architect?—A. Yes, sir.

The statement was put in evidence as follows:

Statement of work done in the workshops of the Treasury extension for private parties, as it appears from the books of the Treasury extension, since the date of appointment of A. B. Mullett, esq., as Supervising Architect, the amounts charged for the same, and how and when paid.

No.	Name.	Dates at which work was performed.	Nature of the work.	Amount charged.	How paid.	When paid.	Amount.	Balance due.
1	Wm. Slade, (late steward of Executive Mansion.)	From Sept. 2, 1867, to June 24, 1868.	Shoeing horses and keeping the same; repairing buggy and carriage, &c.	$441 32	By cash to disbursing clerk. Do..... By check.....	August 13, 1867.... March 9, 1868..... April 1, 1869..... June 27, 1870.....	$100 00 150 00 100 00 91 32	
							441 32	Balanced.
2	C. W. Walton.....	Sept. 2, 1867, to Dec. 12, 1867.	Repairing buggy and shoeing horses	14 63	Cash as above	Sept. 30, 1868.....	14 63	Do.
3	B. Oertly.....	Sept. 2, 1867, to May 18, 1868.	Moving furniture, water pipes, and repairing each, &c.....	61 89	..... do	Dec. 1, 1868	61 89	Do.
4	W. H. West, C. C..	Dec. 14, 1866, to March 11, 1868.	Fitting up stoves and chandeliers, gas-pipes, and brackets, carpentry, &c.	61 86	..... do	July 1, 1869	61 86	Do.
5	Michael Hines	Sept. 18, 1868.....	Use of cart	6 50	..... do	April 6, 1869.....	6 50	Do.
6	L. A. R. Tisdale...	Jan. 7 to April 19, 1869.	Sundry labor.....	6 50	..... do	June 15, 1869.....	6 50	Do.
7	"Inauguration Ball Com."	Feb. 15 to March 15, 1869.	Sundry materials and labor for decorations, hauling, washing floors, &c.	2,311 04	Credit by materials returned. By check placed in hands of disbursing agent.	April 5, 1869..... ..... do	811 04 1,500 00	Do. Do.
8	Wm. Brown.....	Dec. 21, 1868	Shoeing horse	1 39	.....	.....	.....	$1 39
9	Wm. Handy.....	Sept. 12 and 13, 1867	Labor and material for painting.....	17 18	By cash to disbursing clerk.	Sept. 30, 1867.....	17 18	Balanced.
10	Hon. M. Blair	Sept. 13 to Oct. 7, 1867.	Cutting and assorting stone.....	122 88	..... do	May, 1869	122 88	Do.
11	General Cushing...	Oct. 17, 1867.....	Making stand for stove-pipe	1 66	..... do	June 28, 1870.....	1 66	Do.
12	Wm. G. Steinmetz.	Nov. 11, 1867, to March 26, 1870.	Making tin boards, picture frames, altering stoves, painting, and materials.	18 52	..... do	June 8, 1870.....	18 52	Do.
13	W. H. Seward.....	Dec. 21, 1867, and Nov. 26, 1868.	Repairing steps and fireplace and damages by fire	21 77	By cash.....	April 2, 1870	21 70	$0 07
14	S. C. Pomeroy.....	Dec. 31, 1867	One walnut case.....	481 05	By check placed in the hands of disbursing agent.	July 31, 1868	481 05	Balanced.
15	Hon. Chas. Sumner.	March 4, 1868.....	Black walnut desk and case	624 13	By cash, as above..	March 13, 1868.....	624 13	Do.
16	H. R. Hulburd	Dec. 19 and 20, 1867.	Cutting carriage step.....	10 50	.....do	April 1, 1869.....	10 50	Do.
17	Samuel F. Carr....	April 19, 1867, to July 27, 1868.	Teaming, repairing water-closet and bath-tub.....	13 91	By cash.....	June 27, 1870	13 91	Do.
18	Hon. Wm. Sprague.	Oct. 21, 1867, to Apr. 13, 1868.	Painting, masonry, and hauling material.....	47 71	Paid by check	July 12, 1869	41 71	Do.
19	James C. Rankin ..	Apr. 6, 1868, to Apr. 10, 1869.	Hauling, making fire-boards, and material.....	14 51	By cash to disbursing clerk.	June 8, 1870	14 51	Do.

of the bureau officer, or some responsible clerk, that the article has been received, and that receipt the Superintendent places on file in his office.

Q. Then, before he refers the account of your office for work for settlement, he obtains from the office of the Bureau which originally made the requisition the receipt of its head or chief clerk that the article has been received?—A. That is the regular course.

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							441 32	Balanced.
2	C. W. Walton.....	Sept. 2, 1867, to Dec. 12, 1867.	Repairing buggy and shoeing horses	14 63	Cash as above	Sept. 30, 1868.....	14 63	Do.
3	B. Oertly.....	Sept. 2, 1867, to May 18, 1868.	Moving furniture, water pipes, and repairing each, &c.....	61 89	..... do	Dec. 1, 1868	61 89	Do.
4	W. H. West, C. C..	Dec. 14, 1866, to March 11, 1868.	Fitting up stoves and chandeliers, gas-pipes, and brackets, carpentry, &c.	61 86	..... do	July 1, 1869	61 86	Do.
5	Michael Hines	Sept. 18, 1868.....	Use of cart	6 50	..... do	April 6, 1869.....	6 50	Do.
6	L. A. R. Tisdale...	Jan. 7 to April 19, 1869.	Sundry labor.....	6 50	..... do	June 15, 1869.....	6 50	Do.
7	"Inauguration Ball Com."	Feb. 15 to March 15, 1869.	Sundry materials and labor for decorations, hauling, washing floors, &c.	2, 311 04	Credit by materials returned. By check placed in hands of disbursing agent.	April 5, 1869..... ..... do	811 04 1, 500 00	Do. Do.
8	Wm. Brown.....	Dec. 21, 1868	Shoeing horse	1 39	.....	.....	.....	$1 39
9	Wm. Handy.....	Sept. 12 and 13, 1867	Labor and material for painting.....	17 18	By cash to disbursing clerk.	Sept. 30, 1867.....	17 18	Balanced.
10	Hon. M. Blair	Sept. 13 to Oct. 7, 1867.	Cutting and assorting stone.....	122 88	..... do	May, 1869	122 88	Do.
11	General Cushing...	Oct. 17, 1867.....	Making stand for stove-pipe	1 66	..... do	June 28, 1870.....	1 66	Do.
12	Wm. G. Steinmetz.	Nov. 11, 1867, to March 26, 1870.	Making tin boards, picture frames, altering stoves, painting, and materials.	18 52	..... do	June 8, 1870.....	18 52	Do.
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17	Samuel F. Carr....	April 19, 1867, to July 27, 1868.	Teaming, repairing water-closet and bath-tub.....	13 91	By cash.....	June 27, 1870	13 91	Do.
18	Hon. Wm. Sprague.	Oct. 21, 1867, to Apr. 13, 1868.	Painting, masonry, and hauling material.....	47 71	Paid by check	July 12, 1869	41 71	Do.
19	James C. Rankin ..	Apr. 6, 1868, to Apr. 10, 1869.	Hauling, making fire-boards, and material.....	14 51	By cash to disbursing clerk.	June 8, 1870	14 51	Do.

Statement of work done in the workshops of the Treasury extension for private parties, &c.—Continued.

No.	Name.	Dates at which work was performed.	Nature of the work.	Amount charged.	How paid.	When paid.	Amount.	Balance due.
20	Hon. W. E. Chandler	Oct. 31 to Nov. 29, 1867.	Making plate chest and sundry repairs to furniture	$41 37	By cash to disbursing clerk.	Oct. 31, 1867 Nov. 30, 1867	$11 37 30 00	Do.
21	Thomas Feran	Dec. 4 to 10, 1866	Painting	64 69	do	Jan. 15, 1868	64 69	Do.
22	Geo. B. McCartee	Nov. 23, 1866	Labor, &c., on fire-place	3 25	do	August 4, 1869	3 25	Do.
23	H. S. Safford	May 25, 1867, to April 30, 1869.	Paints, oils, and painting glass, making fire-board and picture frames.	14 05	do	June 8, 1870	14 05	Do.
24	Hon. Wm. Johnson	May 20, 1867	One mahogany book-case and boxing	102 37	By cash to Dep't	July 21, 1869	102 37	Do.
25	W. J. C. Duhamel	Oct. 14 to Nov. 23, 1867.	Repairing and painting buggy, &c	30 35				$30 35
26	Geo. O. Evans & Co	Oct. 12, '67, to May 18, 1868.	Experimental gas works for Treasury building	240 66	Contract	unadjusted		Balanced.
27	A. B. Mullett	June 19 to Dec. 30, 1868.	Repairing lounge, refrigerator, and range, and materials for same.	59 93	By cash placed in hands of disbursing clerk.	June 1, 1869	59 93	Do.
28	Committee on Floral Decorations.	May 27, 28, and 29, 1869.	Hauling evergreens and labor supplied	21 75	By cash as in case next preceding.	June 15, 1869	21 75	Do.
29	Chas. H. Parsons	May 21, 1869	One walnut case	137 11	do	May 25, 1869	137 11	
30	Hugh McCulloch	Jan. 1, '66, to March 9, 1869.	For sundry labor and materials furnished	7,826 09	By cash and certificates of deposit brought to the credit of the Treasury extension.	May 9, 1866 Nov. 12, 1866 June 1, 1867 Dec. 21, 1867 June 16, 1868 April 6, 1869 June 27, 1870	310 37 804 80 1,778 36 1,372 82 253 45 69 94 3,236 35	
							7,826 09	Do.

By Mr. MUSSEY:

Q. State whether the superintendent has any method of controlling the expenses of the furniture.—A. He can control the cost of the furniture if he chooses. Before issuing his requisition for the furniture, he can obtain an estimate of its probable cost, and he has recently, in some cases, obtained such estimates.

Q. Has there ever been any impossibility in the office in the way of his obtaining estimates?—A. Never, to my knowledge.

Q. Did he ever apply for an estimate and fail to obtain it?—A. Never.

Q. You say he has recently obtained estimates; since when?—A. Since the latter part of the month of March.

Q. Do you know of any reason for his obtaining estimates from that time on?—A. The Secretary directed him, in a letter dated 16th March, I think, to obtain estimates from Mr. Mullett before work was ordered from the shop—such work as cases and other furniture that would probably be expensive.

Q. Did you yourself, with Mr. Mullett, have anything to do with obtaining that order from the Secretary?—A. I think I was the immediate cause of the order being issued. About the middle of March, Mr. Rice, the superintendent, took to the Secretary a bill for furniture made in the shops of the Treasury extension during the month of February, and objected to the price charged for a case which was included in that bill. As soon as I learned the cause of the delay in the payment of the bill, I called upon the Secretary and protested against his entertaining the objection at that time. I took the ground that the case having actually been ordered, without limitation as to cost, and no estimate having been required as to the probable cost, it was too late to raise the objection. The returns of the master mechanics showed that the case had actually cost the amount stated, and there was no reason why the bill should not be paid at once. I also suggested to the Secretary the importance of requiring Mr. Rice to obtain estimates before ordering work that might prove expensive. I told him it was the invariable practice in my office, and, as far as I knew, in all the offices of the Government intrusted with the expenditure of money, and I knew no reason why Mr. Rice should not do it. I told him that, in consequence of his not doing so, Mr. Rice had made requisitions on our office for furniture, which would cost at least $30,000 more than he had money to the credit of his appropriation to pay for; and that we were actually obliged to stop work, for the reason that we learned we could not have our bills paid if we filled all his requisitions. Thereupon, within a day or two, the Secretary issued an order to Mr. Rice, requiring him to obtain estimates from Mr. Mullett in all cases where any work likely to be expensive was ordered of Mr. Mullett, and he at the same time instructed Mr. Mullett to furnish such estimates when called for.

Q. Do you know whether efforts were made prior to that time to obtain an order of the kind?—A. I know of none. I think there would have been no difficulty in obtaining an estimate. It was the practice of Mr. Steinmetz to furnish Mr. Mullett with estimates frequently on that very work.

WASHINGTON, D. C., *June* 29, 1870.

W. G. STEINMETZ sworn and examined.

By the CHAIRMAN:

Question. State your occupation.—Answer. I am a civil engineer. I am assisting superintendent of the alterations in the Treasury building, and sworn measurer to the Treasury Department.

Q. You are assisting the Supervising Architect?—A. Yes, sir.

Q. Is Mr. Mullett superintendent in the alterations of the Treasury building?—A. Yes, sir. If Mr. Mullett were not here, and were somewhere else, I would be superintendent.

Q. Have you an appointment from the Secretary of the Treasury as assistant superintendent?—A. No, sir. I have my appointment from Mr. Mullett.

Q. Are you in the office of the Supervising Architect of the Treasury?—A. I am connected with the office.

Q. How long have you been connected with it?—A. Since the 1st of July, 1863.

Q. In what capacities?—A. I have been draughtsman until the middle of 1867, and from that time I have been acting in the capacity of engineer to lay out the works in the north wing of the Treasury building. I continued in that capacity until about the middle of 1868, when I was appointed assistant superintendent of the works.

Q. Is there any branch of civil engineering to which you have given particular attention?—A. Yes, I have been laying out the circular street around the President's grounds, &c.

Q. Have you ever given any special attention to architecture?—A. Only as architectural draughtsman in the office.

Q. Have you recently examined the work going on in connection with the post office building in New York?—A. Yes, sir; I was sent to New York, the first time, in February or March last, to lay out the work for what they call the fine cut stone. I had, at that time, a good deal of work to get the lines in a correct position owing to the way the cellar was dug out. The bottom of the cellar is about 30 feet below the sidewalk, and only one-half

of the cellar was dug out. The other half was not touched, and the derricks, stones, and other things were on the ground. My object was to get the center line, and, in order to do it, I had to erect two or three scaffoldings 30 feet high, and distant from each other between 20 and 30 feet, so as to get the line as nearly level as possible. This kept me in New York longer than I anticipated, and Mr. Mullett required me, of course, to remain there until the thing was so that workmen could go to work. I had two civil engineers to aid me, Mr. McLean, the city surveyor, and his assistant. We finally fixed an assisting point in the center of the building, and I found that my lines were as correct as they could possibly be got. We always allow a small mistake for a certain length. Of course, if you have to measure 500 yards with an iron rod of 20 feet, marking each end with a sharp knife, the continuation of that knife makes a difference in the aggregate length, but still, a difference so slight that we always take it as accurate. After finding my point for the center, I remeasured to all the sides, and fixed the points in the cellar, marking the stone with a chisel mark, which can be found to-day. About three weeks ago I was sent to New York to lay out, with the assistance of those two gentlemen, the points for the iron columns in the cellar. Mr. Mullett requested me to go over my first lines and to be sure that everything was correct. I did so, and almost every test that was made verified my first measurement. Consequently I began to lay out the third row of columns from the City Hall Park front, beginning with the third column, because the first and second rows of columns I could not lay out, the ground not being dug down yet. Up to the third row of columns I could work with the greatest accuracy. Then I laid out the two rows of columns running parallel with the Broadway front, and also the line into the court-yard parallel with the Broadway front. I also laid out the elevators and the ventilating stakes, and tested the work again, and the men started immediately to work on my lines.

Q. You heard the testimony of Mr. Wyman yesterday with reference to certain supposed inaccuracies in the work?—A. Yes.

Q. What have you to say to them?—A. All I have to say about them is this, that if any competent person would look at the work and find any mistakes, I would accept such mistakes, but I cannot find any mistake in anything Mr. Wyman has spoken of, except as to one point; the mistakes are of no account at all.

Q. You superintended the erection of the north front of the Treasury building?—A. Yes, sir.

Q. What other buildings, if any, have you superintended the construction of?—A. No other in this country, but I have been engaged in building in my native country, Prussia. I was engaged in the erection of one large building in Cologne, and two churches there; and I was also engaged on the railroad from Treves. The public building that I speak of in Cologne was a very large fire-proof building for the city authorities.

Q. Where were the two churches you speak of?—A. One was a Gothic church in Cologne, and the other was a church in Holland. I was superintendent of the stone work on both churches.

Q. Something was said about certain iron columns having been too long, and necessitating a lowering of the floor; what is the fact about that?—A. That is one point in which I agreed that Mr. Wyman was, in so far, correct. The drawings were made while Mr. Mullett was in California. They were made by Mr. Cammerhuber in the office, a very able man, who had been connected with Mr. Cluss, the architect here, who has built many public buildings in this city. Mr. Cammerhuber, believing that he would make an improvement, constructed the columns in such a way as to sink the cap of the columns in the granite stone. Mr. Mullett, on coming back and looking at the drawings, immediately found that it would cost more money to cut out these holes than to place the columns in the ordinary way, and, consequently, he immediately ordered that the stone should not be cut out the three inches, but that the columns should remain as they were, and that the top course should also remain without being cut; and that the footing stone should be cut off three inches; but that did not make any additional cost.

Q. The alteration was one in the interest of economy?—A. Yes, sir. Each stone would have cost to cut it out three inches from $75 to $100.

Q. What was the expense of the change?—A. I would charge it at about $1, because the cutter had only to cut a little more down. He had to level the stone, and whether he cut it down an inch or two more or less would not make any material difference in the labor.

Q. The original plan, as I understand, would have been an excellent one, but the advantages were not equal to the expenses?—A. Yes, sir. Both plans were according to the proper principles of architecture; though Mr. Mullett would not have permitted the other to be drawn if he had been here.

Q. With reference to angles, state how angles, derived by geometrical calculation from the elements of triangles, agree. State whether they ever agree with geometrical accuracy over large spaces, such as you have in that building.—A. They should; but here was the difficulty which Mr. Wyman did not understand. We were compelled to take the city surveyor's plat. The Government property had never been measured, perhaps, since its donation to the Government, and the lines had never been established. The first plat received from the city surveyor was not correct, we found some mistakes there. Mr. Mullett immediately sent word back, and then received another plat with a slight variation, and on that we have to go on with the work. It did not make any difference in the foundations whether

they were an inch or two inches out of the way, because we always allow for the foundation pier sufficient spaces. So they went on and laid the concrete bed, and afterward the rubble foundation. During this time the plans were corrected. The office came to the conclusion to adopt certain lines, and it did so. That one line was not parallel with the other, it is true. There are 21 inches difference between the property line and the line which we adopted on park front. Mr. Mullett took in these 21 inches on the one end, running to nothing on the other end. There is where the difference comes in. The lines now are strictly parallel.

Q. What is the fact in reference to this pier at the intersection of the Broadway and Park street fronts, and which was claimed to be a little out of place?—A. We set the piers rough, with rubble granite stone. When I went there I tried to get lines on those piers, but I found it utterly impossible. We never care for foundation piers bulging an inch one way or another, so long as the fine work is on its proper place, and in that case the fine work is on its proper place.

Q. Have you yet reached a point where the fine work is in place?—A. Yes, sir. On the Broadway side the fine work is set on the pier that Mr. Wyman refers to. On the west front and the park front, all the piers are up to their proper height. They were measured with great accuracy, and I remeasured them again to be sure that they were correct. I remeasured the work a week ago, the last time that I was in New York.

Q. Something was said about certain girders being too short.—A. That is utterly impossible. We can strictly calculate up to the tenth of an inch, but we have to go by the plan of the ground and have to depend upon actual measurement. That is why Mr. Mullett long ago notified the contractor that the end stones for the angles should be left two or three inches longer than the measurement, so that they could be cut to the proper measure on the ground. The other stones may be set, but the last one must be what we call "fitted." That is what I have done here on every course in the Treasury building.

Q. Some fault was found with reference to certain stones that were originally designed with a projection of four inches on one side, to support the sidewalk, and which had a corresponding projection on the other side, which was thought to be unnecessary; what have you to say to that?—A. (Illustrating by means of a sketch.) Mr. Mullett ordered one of the projections to be cut off. There were only a few ordered with the projection on both sides, and the rest were ordered to be cut without it.

Q. And changing the plan, you think, was an advantage, and saved expense?—A. Yes, sir. Very few stones with projections on both sides had been delivered.

Witness went on to illustrate and explain by diagram the objection made by the witness, Mr. Wyman, in reference to pier E.

WASHINGTON, D. C., *July* 2, 1870.

W. G. STEINMETZ recalled and examination continued.

By Mr. MUSSEY:

Question. In relation to cutting into the stone for the columns, and the subsequent cutting down of the stone, state what space would have been requisite by the original plans to be cut into the stone.—Answer. It would require to be cut 3 inches deep, and about 2 feet 2 inches or 2 feet 6 inches square.

Q. You stated that the expense would be $75 or $100; what would have run it up to that amount?—A. To cut the stone, and at the same time to fit it exactly in its proper place. I do not believe, with the construction as it was at first, the stone could have been set straight.

Q. You stated the other day that the stone had been cut down three inches to meet the change in the plan; have you examined since then to find out how that is?—A. Yes; the footing stone for the column has been altered. The height of the pier on which this footing stone rests was given, and was not required to be reduced. The space above the columns could not be or should not be changed, consequently the difference of these three inches had to be made in the footing stone, which had not been delivered at the time.

Q. So that it really involved no expense?—A. No expense at all; but it saved these three inches of stone.

Q. As to pier E, Mr. Wyman said that the offsets on it were not even. Is that of any practical importance in a building?—A. Not in the least; none at all.

Q. Of what sort of stone is this pier E built?—A. The cellar piers are all of rough granite, not dressed at all, but sometimes chipped off.

Q. What degree of accuracy do you endeavor to get in building from this rough stone?—A. We do not get any accuracy with rough stone. If I have to build on a rough stone wall, I have to lay lines on it and build by those lines. I cannot take the outline of any rough stone wall as a line to build any superstructure on.

Q. You have laid out lines for the fine set work?—A. Yes, sir.

Q. And those are laid off accurately in accordance with your plans?—A. Yes; in accordance with the plans of the office.

By Mr. ELA:

Q. This idea of sinking the iron columns into the stone was a wrong design of the constructor originally?—A. Yes; but he had a reason for it. Mr. Cammerhuber was a very competent man, and he thought that in this way he would protect the iron work so that it would not yield either way; that he would bind the iron work by sinking it in the stone.

By Mr. MUSSEY:

Q. Does the slight variation in the rough pier E from the true line affect at all the line of the superstructure?—A. Not at all.

Q. How much offset in a rough pier like that is necessary to give sufficient strength to the superstructure?—A. No offset at all is necessary, because the pier has a solid foundation of concrete four feet deep, projecting one foot three inches on each side round.

By the CHAIRMAN:

Q. You found, as I understand, that the lines as given you by the city surveyor were not parallel?—A. They were not parallel, and therefore we had to make a parallel line on the Broadway front.

By Mr. MUSSEY:

Q. Does that affect the superstructure at all?—A. Not at all. It only facilitates the work. We do not lose any ground at all by it; but in this way we ep the whole building symmetrical.

By Mr. ELA:

Q. Have you ever looked over the specifications for the iron beams, which Mr. Wyman said were many inches too long, to see whether the mistake actually existed?—A They never have been made. I am now measuring the positions for the columns, and as soon as the footing stones for the columns are set, the actual distance will be measured on the ground.

Q. Have not the advertisements gone out for furnishing beams of a given length?—A. Those beams that are advertised for are beams that are run into the wall, and it makes no difference whether or not they are an inch or two longer. The practical question is to see that they are not too short. If they are two inches longer than they were ordered, all that is necessary is to deepen the hole in the wall that is to receive them two inches more, and there is no difficulty about that. In every building where beams have to be fitted we only give the lengths after the footing stones are set and measured, and we always send a pattern lest there might be any difference in the rules of measurement.

By the CHAIRMAN:

Q. The statement which you have submitted to me this morning was prepared by you, and shows the cost of the furniture manufactured in the shops of the Treasury Department?—A. Yes, sir.

Q. And the figures which it contains are correct?—A. They are. Every piece of furniture can be seen in the building yet.

The statement was put in evidence, and is as follows:

Statement in regard to the furniture made in the cabinet shop connected with the Treasury extension, viz:

1st. One desk for Third Auditor, November 29, 1867, $119 37.—This was a large book and file case, 13 feet 6 inches by 11 feet 6 inches, for room 55 of the Third Auditor's Office. The file case fitted up with pigeon-holes, which required a large amount of additional labor and material, and adds not less than 20 per cent. to the cost of an ordinary book-case. This case was made of solid mahogany and in the very best manner, and is now in as good condition as when first constructed.

2d. Two desks for Secretary's office, January 4, 1869, $322 43 each.—These were two large double standing desks for four clerks, with rollers for books, &c., made under special instructions and of the best mahogany, or, in other words, double the number of desks stated by Mr. Oertly.

3d. Two desks for Architect's office, $330 57 each.—These were two large double desks for four clerks, or for twice as many single desks as were given by Mr. Oertly.

4th. Two standing desks for Fourth Auditor, $500 12½ each.—These were two double standing desks for Fourth Auditor, one side 13 feet, and the other 17 feet 3 inches long; the peculiar nature of the business for which they are used requiring desks of this size. They would give ample accommodation for seven clerks engaged in ordinary business.

5th. One walnut book-case for Light-house Board.—This was a walnut desk and file case combined, and of a special finish.

6th. One mahogany book-case for Treasurer, $849 33.—This was a large book and file case 10 feet 4 inches by 13 feet, fitted with pigeon-holes, which, as before said, largely increases

the cost of such a piece of furniture over one fitted up in the ordinary manner, with the same external appearance.

7th. One case for Fourth Auditor, $4,098 56.—This covers four cases for Fourth Auditor's office, 20 feet 6 inches long by 13 feet high, two being placed back to back between doors 27 and 29, and two between doors 23 and 25, first floor, each case being fitted up with pigeon-holes and shelves for books, thus making four cases instead of one, as stated by Mr. Oertly.

8th. One case for Fourth Auditor, $1,182 91.—This case covers the entire superficial area of one end of a room 20 feet 6 inches long by 13 feet high, fitted up with pigeon-holes and shelves.

9th. One case and desk for Fourth Auditor, $1,104 70.—This is also a case covering the side of a room 20 feet 6 inches long by 13 feet high. This case has about the double depth of any of the other cases.

10th. One case, $913 75.—This is the case for the warrant room, 20 feet 6 inches long and 13 feet high, of solid mahogany, fitted up with pigeon-holes and shelves. This case has been made over two years ago, and removed from another room to the present place, and is in excellent condition.

All of the furniture specified above is made of the very best quality of seasoned mahogany lumber, and in the best manner. Though much of it was made some years ago, and exposed to the dry heat of the Treasury building, it is all now in practically as good condition as when first constructed, and will last many years. I now desire to call your special attention to the furniture made under contract for the Treasury Department, of which a great part was ordered and paid through Mr. Oertly during the time he was in charge of the office of Supervising Architect. But few of the articles remain in the building, most of them having become entirely useless and been removed. Of those that remain I will mention the following:

1865.—Book-case for Register's office, 11 by 15 feet, made of cherry, without pigeon-holes, cost $650, or at the rate of $4 17 per superficial foot. The doors are badly shrunk, locks out of order, and the case generally in bad condition.

A solid mahogany case, 12 by 20 feet, of same construction, made in Treasury extension shops for Comptroller of Currency, cost $961 52, at the rate of $4 06 per superficial foot.

1866.—A second case of same material and construction for Register's office, 11 by 12 feet, cost $650, or at the rate of $4 92 per superficial foot. Treasury extension case, of same kind, for Register's office, 12 by 12, sash doors, and of solid mahogany, cost $611, at the rate of $4 24 per superficial foot.

1866.—Two book-cases of ash, 11 by 12 feet, for Register's office, cost $1,000, at the rate of $3 78 per superficial foot. One of which cases has pigeon-holes. Both of these cases are in very bad condition; doors do not fit and the locks are out of order.

Similar case of solid mahogany, made at Treasury extension shops, for warrant room, at a cost of $913 75, at the rate of $3 70 per superficial foot.

1866.—Two double cases of pine for Light-house Board, partly full of pigeon-holes, under contract with A. Grant, cost $2,430 70, or at the rate of $3 39 per superficial foot. Vouchers for these cases certified to by Mr. Oertly. These cases are now entirely worthless.

One double ash case, full of pigeon-holes, made in Treasury extension shops for Solicitor's Office, 12 by 40, cost $1,609 42, at the rate of $3 36 per superficial foot.

Two mahogany cases, made by E. H. King, for Commissioner of Customs, 13 feet by 14 feet 3 inches each, cost for both $2,012 24, with pigeon-holes, at the rate of $5 43 per superficial foot.

One book and file case of mahogany for Third Auditor's office, 11 feet 6 inches by 13 feet 6 inches, with pigeon-holes, made in the shops of the Treasury extension, at the cost of $719 37, at the rate of $4 74 per superficial foot.

One ash case for room 10, second story, 12 by 20 feet 6 inches, less 16 feet square left out in center, made by T. J. Suter, cost $1,000, no pigeon-holes, at the rate of $5 per superficial foot. Contract awarded by Mr. Oertly.

One mahogany case for Fourth Auditor's office, paymaster's division, with large pigeon-holes, 20 feet 6 inches by 13 feet, cost $1,104, at the rate of $4 10 per superficial foot. Made in Treasury extension shops.

One mahogany double case for Fourth Auditor, each 20 feet 6 inches by 13 feet, cost $2,049 28, at the rate of $3 84 per superficial foot. Made in the Treasury extension shops.

In conclusion I have to state that all the furniture made in the shops of the treasury extension is in excellent condition, and needs almost no repairs, while that made outside of the Department was and is in constant need of repair.

I am, very respectfully,

W. G. STEINMETZ,
Assistant Superintendent and Sworn Measurer.

A. B. MULLETT, Esq.,
Supervising Architect Treasury Department.

WASHINGTON, D. C., *June* 28, 1870.

JONATHAN WYMAN sworn and examined.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside in New York. I call myself a clerk.

Q. Were you employed for some time at the post office building in the city of New York?—A. I was, from September, 1869, to May, 1870.

Q. What was your business there?—A. They called me inspector of materials. My duty was to examine and take note of all materials brought upon the premises, and in due time to certify bills therefor.

Witness presented the following statement as part of his testimony:

"Jonathan Wyman, of Crook's Hotel, 84 Chatham street, New York, employed as inspector of materials on the new post office in that city, from September 6, 1869, to May 23, 1870, makes the following allegations:

"On the architect's plans the figures which define the shape of the building are inconsistent and contradictory. On a general plan of the sub-basement the same angle is given, directly or indirectly, as 70° 23′, 70° 22′, and 70° 17½′.

"In the sub-basement the architect's intentions are not realized in his details, the distance between the parallel fronts being too small by 3 inches; and this error of three inches is all put upon the long park front.

"The important pier which forms the corner of west front and Broadway is out of place 2½ inches, and the piers on Broadway 2 inches both ways, giving for offset 6 inches on the right, 2 on the left, 6 inches on the rear, 2 or less on front.

"The blocks of granite for the rough sub-basement, with many vexatious inaccuracies in the schedule, are nearly correct, the schedule for basement correct to course P, though the pier corner of the west front and Broadway does not fit the lot.

"For course P, the blocks were ordered with projections of 4 inches on rear. In March last, when many blocks had been prepared and some delivered, direction was given to remove this projection, or so intended, but really to reduce certain costly blocks to a size quite too small for the third direction, which was sent two months later.

"Courses Q and R, between the sills, were ordered too small by 4 inches on the rear, and a later schedule and plan, correcting this error, abounds in imperfections and inconsistencies, if not errors.

"Iron columns, 32 in number, for the basement front, were ordered 3 inches too long, the floor being lowered to admit them.

"In recent proposals for a large amount of iron work, partial examination of schedule shows a whole set of beams too long by many inches, and two girders near too short by 2½ inches.

"All effort for timely correction of errors has been discouraged."

Q. Is there anything else which you desire to state in order to make your statement complete?—A. That statement which I have read is a mere skeleton. I did not expect that it would be understood without explanation.

Mr. GRISWOLD read to the witness a letter from Mr. Mullett, of which the following is a copy:

"TREASURY DEPARTMENT,
"*Office of Supervising Architect, June* 27, 1870.

"SIR: In the debate of Saturday last, in your House, on the appropriations for public buildings, I notice that statements were made that a lot of iron beams and columns for the New York post office were not suitable for the purpose for which they were intended, and that a large number of iron columns were delivered of improper length.

Please do me the justice to state on the floor that no iron girders or beams have been ordered, made, received, or delivered, and that the only iron columns made or received, namely, thirty-two in number, were of length required by the plans, admirably made, and in every way satisfactory. I have made no changes from my original plans except when the cost of the building could be reduced thereby and in deference to the wishes of your committee that the cost of the building should be reduced to the lowest point.

"Very respectfully,

"A. B. MULLETT,
"*Supervising Architect.*

"Hon. F. C. BEAMAN, *House of Representatives.*"

WITNESS. These iron columns were to take the place of granite, and my criticism is, that the order makes them 3 inches too long for the place. In reference to the beams and girders, the bids were to be opened on the 26th of May, and it was on account of that that I showed, just before that time, the errors which I believed had been made. The error is not in material actually delivered, but in specifications for material.

By the CHAIRMAN:

Q. Are you an architect?—A. I am not.

Q. Have you ever studied the business of an architect?—A. No, sir. I do not pretend that I have.

Q. Have you ever had any experience in building, or superintending the erection of large buildings?—A. No, sir.

Q. Or any experience as a builder or superintendent of buildings at all?—A. I may say no to that. The last year that I was on a farm we were building a brick house, which sent us to the quarry, the brick-yard, and the timber-lot, and for five years I was in the real estate business in New York, where we had constantly to do with buildings.

Q. What position did you occupy in the real estate business?—A. I was general clerk, and occasionally went to examine buildings offered for sale.

Q. Had you anything to do with the erection of buildings during those five years?—A. Not with the erection of any.

Q. Or with the plans for their erection?—A. Sometimes with plans; but I would just as lief give a general negative to your question as to everything that pertains to the architectural art.

Q. You mean that you have no experience whatever either as an architect or builder?—A. Yes, sir.

Q. You speak of the angle in the plan of the sub-basement as being stated differently in different places; will you not state in what connection these different statements of that angle occur?—A. That angle is given as 70° 23′, or within a twentieth part of 23′. Again, on the same plan, it is given by showing the length perpendicularly and base of a right angled triangle, which is the same thing essentially. And then, as a more complicated matter, a certain angle between these same lines is given; and on the very simple principle, that in a triangle the three angles together are equal to two right angles, the figure can be worked out.

Q. In other words, the angle itself is stated in terms as 70° 23′?—A. Yes, sir.

Q. And there are certain elements given elsewhere, which by calculation make you arrive at an angle that is only 70° 22′?—A. Yes, sir.

Q. The angle itself is not stated differently on the plans?—A. I do not recollect as to that.

Q. Do you recollect that angle 70° 23′ to have been stated anywhere on the plans as other than 70° 23′?—A. I do not.

Q. So that it is only by a careful geometrical calculation that you arrive at the fact that that angle must have been only 70° 22′?—A. I would not call it a careful geometrical calculation; it is quite simple.

Q. The calculation that you followed led you to a geometrically accurate result?—A. To an accurate result.

Q. Do you know practically whether, in erecting a building of that size, a difference in the elements of an angle to that slight amount would make a particle of difference?—A. It is not a slight amount.

Q. I ask you whether or not, as a practical question, it makes any difference in the erection of a building of that size, that an angle may be stated in that way of one size, and that the elements from which that angle may be calculated, as you calculated it, may show an angle differing but the amount which you say this difference was, a minute, or a minute and a fraction?

WITNESS. Do you mean to ask me whether I regard the difference as material?

The CHAIRMAN. No, I do not ask you that. I ask you whether you have any practical experience to teach you whether it is material or not?—A. I have not practical experience.

Q. To know whether or not the difference would be material?

WITNESS. I would rather not answer as to the inference.

The CHAIRMAN. I do not ask you for any inferences; I ask you if you have any practical experience from which you can judge whether or not the difference, if it exists, would make any embarrassment in the erection of the building?

A. I have not practical experience. I know, however, that it would make a material difference.

Q. Explain what you mean about the architect's intention as to the sub-basement not being realized in its details, the difference between the parallel fronts being too small by three inches?—A. There are in the office a great many plans, side views, and incidental matters, which show, though not exactly and certainly, where the offsets would be; and these plans will show, I think, unmistakably that there was an intention of having an aggregate difference on the two fronts of at least 7 inches, and I find but 4 inches.

Q. What is the distance between these parallel fronts?—A. Perhaps 225 feet.

Q. How do you arrive at the fact that the distance between these fronts is too small by 3 inches. Is it by measurement, or by careful mathematical calculation?—A. That is theoretical, comparing one plan with the other, and involves also some careful calculation. It is much more complicated than the other.

Q. A careful geometrical calculation is the way in which you arrive at the conclusion that you think the distance is stated 3 inches too small?—A. That the distance is 3 inches less than it ought to be.

Q. Do you know, as a matter of fact, whether any embarrassment has thus far occurred

in the erection of the building from that circumstance?—A. I stated here directly, that the difference of 3 inches ——

Q. I ask you if you know, as a matter of fact, of any embarrassment having arisen in the erection of the building from this supposed error of 3 inches in the plans?—A. If you mean delay in the work, I do not think there has been.

Q. You know of no delay from that circumstance?—A. No, sir. I suppose the mason goes on and lays the blocks as they come. That work is measured, however, and will show for itself.

Q. How do you get at the fact that this important pier at the corner of the west front and Broadway is out of place, as you describe it?—A. By actual measurement.

Q. By measurement on the ground, or by geometrical calculation from the plan?—A. Not by calculation, but by measurement as the piers actually stand. Instead of 4 inches, the regular offset, there are 6½ inches offset. The sub-basement in both directions is too small, and that crowds the foundation too far on the lot. I speak of the building itself as the fixed thing, and the sub-basement as the changeable thing.

Q. Has any one about the building discovered this error besides yourself?—A. I do not know.

Q. Does anybody admit the existence of the error, so far as you know, besides yourself?—A. I have never spoken of it, except to Mr. Hulburd. I asked him to look at it with me, but I think he never did.

Q. The blocks of granite that came to the building, it was your business to receive and receipt for?—A. Undoubtedly.

Q. Had you in your possession a schedule by which to receive them?—A. A schedule was made out. I had much difficulty at first before a schedule was made out. When the granite began to come it was found that there was no schedule.

Q. Was it your business to compare the blocks as they came with the schedule, and to certify their agreement with the schedule, or was it your business simply to measure the blocks and ascertain their size and report their size for payment?—A. It was my duty to examine them, and, in the receipt of all goods, it is the mercantile usage that there shall be a description of the goods, to which the article is expected to conform.

Q. Was it your duty to ascertain and certify that the blocks of granite were correct and according to the schedule put into your hands for the purpose of guiding you, or was it simply to ascertain the cubic quantity of the blocks, and certify and report to the proper authority for payment?—A. I do not know that that question was ever definitely started. I had no doubt that it was my business to see that the blocks agreed with the schedule.

Q. Were you instructed to see that the blocks did agree with the schedule?—A. I called for a schedule, as a matter of course, and was furnished with one after a very inconvenient delay. I do not know that I ever had any authority to see to anything else, except that the material agreed with the schedule. I did understand that the schedule was the description of the material.

Q. When were you instructed as o your duties with reference to these blocks of granite?—A. I do not know that I had any special instructions. A schedule was furnished to me, but not until after I had called for it. I do not know that I had any authority over anything else than that I was to compare the blocks with the schedule.

Q. What were the contents of that schedule?—A. It contained general headings, "what ront, what pier, what length, what width, what thickness, and how many pieces." The stones were marked for the front and for the pier, and then were defined by length, breadth, and thickness.

Q. Were the stones numbered to agree with numbers in the schedule, so that you knew what dimensions a particular stone was intended to fill?—A. They were, very much, although the marking was likely to be defaced. The real reliance was the knowledge of the dimensions in the schedule, and then the actual dimensions by measurement.

Q. How large a part of this stone had been received before you received the schedule that you speak of?—A. The first lot that came in proved to be a very small lot, some fifty blocks, I presume, and no more than that came until the schedule was furnished.

Q. You say the pier at the corner of west front and Broadway does not fill the lot; what do you mean by that?—A. That is not a matter of schedule, but is a matter of fact. I do not see how it could arise from the architect's plan. It seems as if it must be a mistake of the contractor or builder. The pier does not fit the line. In reality it runs over a little.

Q. How much does it run over?—A. There are two ways of determining that. My impression is, half an inch in the size of the pier.

Q. Is the pier half an inch too small or out of place?—A. It is a corner pier, and the mason has set it on the line on one side, and running over the line on the other side. It is fitted for too large a corner. It runs half an inch over the line in 8 feet. That would be one inch in 16 feet, two inches in 32 feet, and so on.

Q. I do not understand that the line has been followed in that way?—A. I do not say that that error comes out of the architect's plan. It is one of the imperfections of the work.

Q. The blocks of granite that you speak of, where were they prepared; at New York, or at the quarry?—A. At the quarry at Dick's Island.

Q. Have you been there yourself?—A. I never have been there.

Q. What knowledge have you of the number of blocks prepared there, before directions were given to change the piers?—A. The architect required of the agent there, before giving the order for the change, a statement, which was in the office at New York, and of which I have a copy.

Q. As to this projection which you speak of occurring, both on the inner and outer sides of the wall, the only use that you could discover for it was for the projection on the outer side, as I understand?—A. The use of that is evident.

Q. That is to support the sidewalk, as I understand?—A. I understand it to be so.

Q. Might there not have been some architectural or practical advantage, also, in the projection on the inner side, of which you are not aware?—A. There may have been.

Q. You do not know whether or not that was useful, or according to architectural rules?—A. That is the fact.

Q. Have you any knowledge on the subject that enables you to speak decidedly as to whether or not that projection in that place has a practical value?—A. I am not an architect, if that is a satisfactory answer.

Q. I want to know whether or not you have such an acquaintance with the subject as to enable you to speak certainly as to whether it had or had not utility?—A. It was always a matter of wonder to me. I conned and conned, and examined it. The specifications were correct. They were nicely done; but still, why the projection was there at all, was a constant wonder to me, and afterward directions were given to take it off.

Q. With the exception of the comparison of the blocks of granite with the schedule, was there any part of these matters, with reference to which you found fault, that was within the duties assigned to you at that building?—A. That is, in part, a matter of opinion. I do suppose that it was my duty to know that the material that came there was of specified size, and of satisfactory size.

By Mr. ELA:

Q. What is the increased ratio of the cost of the stone as its size is increased?—A. I understood that it is one cent additional for every foot above 20 cubic feet.

Q. And the only change you knew in relation to the stone, was a change of plan to reduce the size of the stone?—A. A letter came with directions and explanation to remove that projection.

By the CHAIRMAN:

Q. In the last part of this statement, you say, "In recent proposals for a large amount of iron-work, partial examination of schedule shows a whole set of beams too long by many inches, and two girders near too short by two and a half inches." Was any part of that iron delivered while you were at the building?—A. No, sir; it would not be ready for a long time. I do not know that the contract is actually given. The proposals were to be opened on the 26th of May, but what was done afterward I do not know.

Q. How did you arrive at the fact that the set of beams mentioned in these proposals were too long for the place for which they were designed?—A. By taking the schedule and measuring the places on the ground—by actual measurement, telling from the schedule the point which would determine one end. It is actual measurement and no calculation.

Q. Can you describe what beams these were that were too long?—A. Yes, sir; for, strangely, the errors center about a certain part. They were the beams which lay alongside these iron columns in the sub-basement front, which extended from a certain girder out under the sidewalk to the area of the wall.

Q. Where were these girders to go that were too short by 2½ inches?—A. On the Broadway front; beginning at the door of Mr. Hulburd's office, and counting down the Broadway row of piers, it is the third column that is out of place, and the length of the girder depends upon it. I am not quite sure that it is at the left, which would make it shorter, or at the right, which would make it longer; but I can state definitely that beginning at the Park front it is the third column that is 2½ inches out of place.

By Mr. GRISWOLD:

Q. Is it out of line with the other columns?—A. It never would be set out of line. The man who was putting it up would never place it in that way: but the length of girder is not right. The column would stand on a line with the others, but its distance from the other columns is 2½ inches more than the girder.

Q. Then something has got to be done with the girder to keep the column in line?—A. Yes.

By Mr. ELA:

Q. You stated somewhere in conversation that these 32 columns were too long, and that the granite had been altered to receive those columns?—A. These columns were to take the place of certain small granite pillars. The size of the basement, including the P course, is seven courses, and these courses are of uniform thickness, 20½ inches. The length of these columns standing on one course of the seven, was 3 inches more than the thickness of the six courses, and directions were actually sent to the quarry to cut down that one course

(course G) by 3 inches, so as to let in these columns and their plates. So that, instead of 20½, they were cut down to 17½ inches.

By Mr. GRISWOLD:

Q. Was the granite cut down at the bottom of the columns or at the top?—A. At the bottom. I myself detected that. It was reported to Washington. It was a thing that concerned me, and I detected it. When the letter came back from Washington the answer was shown to me, and in that letter directions were given to cut down these pieces and make them 17½ inches instead of 20½. The schedule in the office makes them 20½, and the direction was to cut them down to 17½ inches.

Q. How much does this P course project over the course below?—A. Four inches.

By the CHAIRMAN:

Q. Was there any cutting down of the stone, or was it only a cutting down in the plan?—A. It would have been cut down in the plan if made in time, but the plan was changed after the stone was cut. Some of it was done on the ground at New York, and I understood that it was done also at the quarry with the blocks that were not delivered but prepared. I mean that 4 inches were actually cut off from the size of the stone.

Q. In how many stones did that occur?—A. I have not the schedule and cannot answer very definitely. I think there were 13 on the ground. A couple of small ones were thrown aside and could not be used at all; two others were broken up. I remember one large pier on which four of these stones went, with some alterations, and not quite right at that. The P course in the middle pier was made wrong in one direction by the contractor, and in another direction by the mason. That is a matter of feet and inches which need not rest on my assertion at all. Where there are different parties, the office in Washington, the execution in New York, and the preparation of the materials at the quarry, if errors are started it is wonderful how they multiply; and that pier in the basement is a good illustration of it. The measurement is 6 feet 4¼ inches. The direction of the plan in the office in New York is 5 feet 6½ inches, a difference of nearly 10 inches; and on that corner it is too small by about 2 inches, and on that line too small by a foot and a half.

By Mr. ELA:

Q. What is the size of this piece of granite that was cut down a foot and a half?—A Some 10 feet long and 4 or 5 feet wide. These corner piers are the massive piers of the building. I do not see how that piece of granite, if actually too small, can be worth 10 per cent. of its cost. It is five-sided, with one side a curve.

Q. Where is the granite to be delivered, under the contract?—A. As called for on the site in New York. There is a clause in the contract which says that the contractor shall cut it as required.

Q. Who has to make the requirement?—A. The architect or the Secretary of the Treasury.

Q. Then the granite is delivered wherever the architect chooses to order it?—A. Yes.

Q. Was there any stone cut in New York?—A. None of it dressed. Sometimes a piece that did not fit its place, or serve the purpose for which it was intended, was cut up for something else.

Q. You had no rough stone brought and dressed there?—A. No, sir.

Q. What is the letter of that pier to which you refer as not fitting its place?—A. Pier E, corner of Broadway and west front.

WASHINGTON, D. C., *February* 13, 1871.

RICHARD DUNBAR sworn and examined.

By Mr. CHURCHILL:

Question. Where do you reside?—Answer. I am at present residing in Washington City. My home is at Brooklyn, New York.

Q. What is your occupation?—A. I am a contractor by occupation.

Q. Were you one of the bidders under the advertisements published last summer for proposals for the completion of the custom-house and post office at St. Paul, Minnesota?—A. I was.

Q. What was your proposal for?—A. For the completion of the whole building; to do all the work necessary to be done to complete the building according to the plans and specifications of the supervising architect.

Q. What was the amount of your bid?—A. Ninety-six thousand five hundred and eighteen dollars and forty-six cents.

The bid was put in evidence as follows:

"*Proposals for the completion of the United States custom-house at St. Paul, Minnesota.*

"_____ _____, 187-.

"_____ _____ hereby propose to furnish all the material and do all of the work necessary to complete the custom-house building at St. Paul, Minnesota, in accordance

with the several plans (numbered from 1 to 57 inclusive, and making in all fifty-eight drawings) and the specifications, and also in conformity with the terms of the following advertisement:

"'ADVERTISEMENT.

"'Sealed proposals will be received at this office until ———, at 12 o'clock m., for the completion of the custom-house building at St. Paul, Minnesota, according to the plans and specifications on file at this office.

"'The cut granite necessary to complete the exterior of the building, including the outer steps, will be furnished to the contractor by the Department at or near the stone-cutters' sheds in the vicinity of the building. The brick, plate-glass, mantels, and grates, locks and trimmings, and chandeliers will also be furnished to the contractor by the Department, delivered at the site of the building. The shops, sheds, tools, derricks, and other machinery, together with all material belonging to the Government, including the limestone, sand, iron, steel, tools, implements, &c., that have been previously purchased for use in the construction of the building, will become the property of the successful bidder. Schedules of this property can be seen at this office, and the articles will be received by the contractor in the location where they are stored. No allowance for hauling or transportation will be made by the Government.

"'The limestone facings must be of the same quality and in every respect equal to that already in the building.

"'The entire masonry must be of equal quality and workmanship in every respect to the work already performed.

"'Payments to be made monthly on the certificate of the superintendent. Ten per cent. of the estimated value of the work performed to be retained until the completion of the contract.

"'All bids must be accompanied by a penal bond in the sum of ten thousand dollars, that the bidder will accept and perform the contract if awarded to him. The sufficiency of the security to be certified to by the district attorney of the district in which he resides.

"'The Department reserves the right to reject any or all bids, and any bid that is not made on the printed form to be obtained at this office, and which does not conform in every respect to the requirements of this advertisement, will not be considered. The work will not be subdivided among different bidders, but will be considered in the aggregate only.

"'A. F. KNIGHT, *Superintendent.*'"

For masons' work	$34,456 85
For carpentry and joinery	27,319 30
For iron-work	16,659 31
For roofing	3,534 00
For plastering	8,489 00
For plumbing and gas-fitting	1,815 00
For painting and glazing	4,245 00
Being for the whole work complete, the sum of	96,518 46

for which amount ——— will accept the contract.

———, ———,
Contractor.

Inside steps also to be supplied.

"*Guarantee bond.*

"For value received, we, the undersigned, hereby guarantee the proposal of ——— ———, ——— ———, and bind ourselves to the United States in the sum of ——— dollars, to be paid in liquidated damages in the event of the failure of the bidder to execute a contract agreeably to ——— proposal, with two good and sufficient sureties, (to be approved by the Secretary of the Treasury,) within ten days after the said Secretary shall have given written notice that the proposal, in whole or in part, is accepted, and that the contracts are ready to be executed.

"——— ———. [L. S.]
"——— ———. [L. S.]

"OFFICE OF THE ———,
"———, ———, A. D. 1870.

"I hereby certify that ——— ———, the sureties who have signed the foregoing guarantee, are known to me as residents of ———, and citizens of the United States, and that I believe them to be amply sufficient security for the amount thereof, and that the guarantee is good.

"——— ———."

Q. Where were the bids opened?—A. They were opened in St. Paul. Here is Mr. Mullett's letter advising me of the result.

Q. Do you recollect at what time the bids were to be opened?—A. I think on the 4th of June.

Witness presents the following letter received by him from the Supervising Architect:

"TREASURY DEPARTMENT, OFFICE OF SUPERVISING ARCHITECT,
"*June* 10, 1871.

"SIR: Yours of the 9th instant is received. In reply I have to say that the bids for the completion of the custom-house at St. Paul, Minnesota, have this day been received, and that you are the lowest bidder. The amount of your bid, however, would make the cost of the building so much above the limit fixed by law, that it is impossible to accept it or take any action in the matter until further legislation is had.

"Very respectfully,

"A. B. MULLETT,
"*Supervising Architect.*

"RICHARD DUNBAR, Esq.,
"*Astor House, New York.*"

Q. What was your letter of the 9th, referred to in that letter of Mr. Mullett's?—A. A letter asking him whether he had heard from St. Paul as to the result of the proposals.

Q. Was your bid sent to St. Paul?—A. Yes.

Q. And was opened there with the other bids?—A. Yes.

Q. Have you any other letter relating to the matter?—A. Yes, I have a letter from Mr. Knight, the superintendent at St. Paul, dated 16th January, 1871.

The letter was put in evidence, as follows:

"ST. PAUL, MINNESOTA, *January* 16, 1871.

"SIR: In compliance with instructions from the Supervising Architect, I have to inform you that the Secretary of the Treasury has decided to reject all the proposals received on or before June 4, 1870, for the completion of the custom-house and post office at this place.

"Very respectfully,

"A. F. KNIGHT,
"*Superintendent United States Custom-house.*

"RICHARD DUNBAR, Esq.,
"*Washington, D. C.*"

Q. Do you know how much your bid, if it had been accepted, would have made the cost of the building exceed the limit fixed by law?—A. I understood then at the office that it would amount to $17,000 over the amount appropriated.

Q. Did you have any conversation with Mr. Mullett intermediate the two letters that you have presented?—A. Very often.

Q. State what those conversations were.—A. He gave me a list of the other four bidders, and he said that there was a gentleman in this city from St. Paul who was a bidder, and who wanted to see me very much. His name was Mr. Wilder, and he was stopping at the National Hotel. Mr. Mullett gave me a card, introducing me to Mr. Wilder; he told me to go and see him. I met Mr. Wilder and another gentleman, named Sherrill, and I handed Mr. Wilder the card which Mr. Mullett had given me, and he invited me up to his room, where we talked the matter over as to the proposals.

By Mr. FARNSWORTH:

Q. Who were the other bidders beside yourself?—A. I cannot name them now. Mr. Wilder was one, and he made me a proposition, asking me if I would sell my bid.

By Mr. GRISWOLD:

Q. This conversation was after the bids had gone in?—A. Yes, sir.

By Mr. CHURCHILL:

Q. And after Mr. Mullett's letter of the 10th to you?—A. Yes. I remember that Mr. Wilder called my attention to the fact of receiving a letter from Mr. Mullett. It was therefore after the result was reported.

Q. Give the conversation as it occurred between you and Mr. Wilder.—A. Mr. Wilder made a proposition to me that he would give me a couple of thousand dollars if I would withdraw my bid. He said that my bid was the lowest, and that he thought it was what they call a fly bid; that it was sent in purposely by Mr. Mullett to annoy him. I told him that I was an old contractor of twenty-five years' standing, and that I had made my proposal in good faith and could not sell it; that I was aware of what I did, and was willing to abide by it. He said that it was too low, and that, if he could get me out of the way, there was another man between me and him whom he

could get out of the way very readily, and get the contract for himself. He said that he had not made the figures himself, but that the architect had given him the figures, and that he had added fifteen per cent. to them. I told him that I had itemised my bid and knew what I was about.

By Mr. FARNSWORTH:

Q. Is he the man who is furnishing the material for that building?—A. Yes, he is furnishing the granite.

Q. State whether Mr. Mullett advised you that your bid was too low.—A. He did. During the intermediate time, from the 10th of June up to the 16th of January, he always insisted that my bid was too low, and that I could not execute it. He then insisted upon my going to St. Paul. Afterward I went to Mr. Mullett and told him that I was ready to go to St. Paul if he would give me a letter of introduction to Mr. Knight. He told me to wait for a few days, and immediately afterward he started for New Orleans. In the mean time I received that letter from Mr. Knight.

Q. He told you that before you went to see Mr. Wilder?—A. Yes; he always told me that my bid was too low.

Q. He told you that Mr. Wilder wanted to see you?—A. Yes.

Q. He gave you a card as a note of introduction to Mr. Wilder?—A. Yes.

Q. Had Mr. Wilder any other business with you at that time than to try to buy you off?—A. That was his only business with me.

Q. State whether, after you received this last letter from St. Paul declining all the bids, you informed the Secretary of the Treasury of what you have just stated to the committee?—A. After I had received the letter from St. Paul, I took it up to the Secretary of the Treasury; I told him I was very much astonished at the purport of the letter, and wanted to know why my proposal was rejected; he said it was on the ground that the Government could do the work itself for less, or something to that purport.

By Mr. CHURCHILL:

Q. Did you not know by the letter of 10th of June that there was a reason in law which might be the objection?—A. I was aware of that, but I was in hopes that an appropriation would be made, and that I, being the lowest bidder, would get the contract. Mr. Boutwell told me that the only reason was that the Department thought it could do the work cheaper; I said that I was aware that I had to fight a powerful ring; he said something about not being aware of a ring; I told him that there was one, and then I stated to him about Mr. Mullett's handing me the card for Mr. Wilder, introducing me to a gentleman connected with the work, and who made me the proposition to pay me so much money if I would withdraw my bid; I said that I would not like to say any more on the subject until Mr. Mullett came back, and that then I would like to have a conference with Mr. Boutwell in Mr. Mullett's presence; Mr. Boutwell said very well. After Mr. Mullett's return I went to see him at his office; he came to me, and asked me if I had told anybody that he had given me a letter to get somebody to buy up my proposal; I said, "Not as you say it." Then he said, "Then you deny it?" I said, "I do not deny what I said." He asked me, "Did you say so and so?" I said, "Not as you say it, but I said that you gave me a card introducing me to a man who made me a proposition to buy my bid." He then said, "You are a liar," and he struck me with his fist on the cheek, cutting a gash in my face; I got hold of him and got him down in the chair, but his clerks caught hold of me, and saved him for the time being.

Q. Did you have any further conversation with the Secretary of the Treasury on the subject?—A. I went to the Secretary after that and told him that I had not expected to meet a pugilist when I went on business into his office; the Secretary said that it was rather unfortunate for both of us. That was all he said in the matter.

By Mr. FARNSWORTH:

Q. How much higher was Mr. Wilder's bid than yours?—A. I cannot give the exact figures, but it was at least $20,000 or $25,000 more than mine; he told me that the man who bid next lowest to my bid was not a very responsible man, and that all that he wanted to get out of the way was me.

Q. Have you been a contractor for the Government in Washington?—A. Yes; I was connected with the aqueduct here from April, 1863, to 1866, I think.

Q. Do you know anything about the Morris Mining Company of Colorado, or the American Mining Company?—A. I know something about the Morris Mining Company. After I had made my proposal for the St. Paul work a gentleman named Thorpe came to me and represented himself as a friend to Mr. Mullett; he introduced me to Mr. Mullett and talked to Mr. Mullett; Mr. Mullett said that any arrangement I would make, or anything I would do, with Mr. Thorpe, he should abide by and stand by; he said that he, Mr. Mullett, was the treasurer of the Morris Mining Company. After we left Mr. Mullett's, we went down to the hotel, and Mr. Thorpe gave me to understand

that he had everything to do in the matter. In a few days afterward he gave me $5,000 of stock of the Morris Mining Company made out in my name.

Q. For what purpose?—A. To pay for it, or to negotiate it.

Q. What did you do with the stock?—A. I kept it for nearly two months and then transferred it back to him again. He saw that I was not negotiating it or paying for it, and he was anxious to get it back, so I transferred it back to him.

Q. State whether anything was said to you about contractors or persons in the employment of the Government being expected to take that mining stock. Was anything said on that subject either by Mr. Mullett or Mr. Thorpe?—A. There was nothing said about it by Mr. Mullett, but Mr. Thorpe said that it was customary to negotiate for that stock with contractors and people doing work.

Q. Did he state how much the capital of the company was?—A. I forget whether he stated the amount or not, but I know from seeing the papers that the capital stock of the Morris Mining Company was $2,000,000, and of the American Company $600,000.

Q. Do you know who was the treasurer of the Morris Mining Company?—A. Mr. Mullett himself told me that he was the treasurer of both companies.

Q. Did you learn from Mr. Thorpe who else connected with the Government buildings, if anybody, had taken stock?—A. He told me that there was a man appointed superintendent, and that he was to negotiate the stock.

Q. Did he say anything about the post office building in New York?—A. He said that there was a good deal of stock negotiated at the New York post office building, and that Mr. Mullett was highly pleased with the result. He did not give me the name of the man there who negotiated it.

Q. Mr. Thorpe had no other business with you than that?—A. No, sir.

Q. And Mr. Mullett told you that any arrangement you made with Mr. Thorpe would be all right?—A. Yes; he told me so. Mr. Thorpe gave me to understand that, if I should negotiate this stock, I could accomplish anything and do anything I had a mind to; that anything I wanted done would be done, and that everything would go on as I wanted it.

By Mr. CHURCHILL:

Q. How long have you been acquainted with Mr. Thorpe?—A. I saw Mr. Thorpe for the first time three or four years ago. I never had much acquaintance with him.

Q. When did you first have a conversation with him in regard to the Morris Mining Company?—A. It was after I had made my proposal for this work; I could not state the month; I think it was in the latter part of June or July. It was in this city. I was stopping at Willard's Hotel, and he came to me there and brought me to Mr. Mullett's office.

Q. Were any persons in New York named as having taken any of the stock of either of those companies?—A. Mr. Thorpe did not give the names of the parties who had taken it. He said that the stock was negotiated there at the new post office building, and that Mr. Mullett was highly pleased with the result of the negotiation there. Mr. Thorpe used to have an office in Four-and-a-half street, in this city.

By Mr. MUZZY, counsel for Mr. Mullett:

Q. What were the requirements as to the furnishing of bonds on the part of the bidders?—A. The requirements were to furnish a bond of $10,000. I furnished such a bond, with General Hiram Walbridge, recently deceased, as my bondsman. Mr. Mullett said it was satisfactory. The bond was certified to by District Attorney Fisher. General Walbridge died last December.

Q. He was the only guarantee?—A. He was the only guarantee, and Mr. Mullett said that he was satisfied.

Q. To whom besides Mr. Wilder did you offer to sell your bid?—A. Not to anybody; and I did not offer to sell it to Mr. Wilder.

Q. Are you positive that you did not offer it to Mr. Wilder?—A. I am.

Q. Or to anybody else?—A. No, sir; never. Mr. Wilder is the only man that ever spoke to me about it.

Q. Did you ever offer to sell to Evan & Teemyer?—A. No, sir.

Q. Did you ever offer to sell it to Theodore Adams?—A. No, sir. I had conversations frequently with Mr. Evan and Mr. Teemyer, and said that I would take them into partnership with me in the concern, but I did not say that I would sell to them, and they never offered anything of the kind to me.

Q. Do you know where Mr. Thorpe is at present?—A. No, sir.

Q. Do you know what relations he holds to this mining company at present?—A. No, sir.

Q. How many conversations did you have with Mr. Wilder about the matter of the contract?—A. The first conversation that I had with Mr. Wilder was the time that I came with Mr. Mullett's card to him, and I met him probably once or twice after that.

Q. And you are quite positive that in all of these conversations he offered to buy you out?—A. He offered to buy me out the first time.

Q. What was the conversation about afterward?—A. We were talking about the work, and I requested that if I should go to St. Paul to do the work, he would not be prejudiced against me on account of my not selling to him. He said that he would not; that he would be a good neighbor, &c.

Q. Do you know the highest bid that was put in for the work?—A. I do not. There were about five bids put in.

By Mr. CHURCHILL:

Q. The only offer that Mr. Wilder made to you was an offer of $2,000?—A. He did not say the precise sum; he said a couple of thousand dollars.

Q. He made you that definite offer if you would sell out or withdraw your bid?—A. If I would withdraw my bid. He said that I had a perfect right to withdraw it, because it was not binding on me; but I told him that I would hold on to it.

Q. Was there any condition annexed to his offer; that is, that he would pay you so much if he afterward succeeded in getting the contract himself, or was his offer an absolute one that he would pay you so much if you would withdraw your bid?—A. I think it was an absolute one, that he would pay me so much if I would withdraw my bid.

Q. Did you see Mr. Mullett after that conversation with Mr. Wilder, and have any conversation with him in regard to the interview between yourself and Mr. Wilder?—A. I did not tell Mr. Mullett the precise words that passed between Mr. Wilder and myself.

Q. Did you tell him of Wilder's having made any offer to you?—A. No, I do not think I made mention of it to him.

By Mr. FARNSWORTH:

Q. You are certain that Mr. Mullett repeatedly said to you that your bid was too low?—A. He did repeatedly, during the summer and fall. He always told me that my bid was too low, and he also said that he would enter a protest against me, if I fell short, and that I should get no extras. When I supposed there would be an appropriation made to finish the work, I went to Mr. Mullett and told him that I was ready to go to St. Paul, and asked him to give me a letter to Mr. Knight. He said that I had better wait another while.

Q. What do you mean by his entering a protest?—A. That, if there was a contract entered into with me, he would file a letter in the Department that, if I fell short in completing the building, I should not afterward have any extra allowances; in other words, that he would hold me to the contract.

Q. What was your opinion as to your bid being too low?—A. I was satisfied with my bid. When I made that proposition I did not expect to get the contract, because I thought the bid too high. The figures there are good liberal prices for a contractor, in my opinion.

Q. You are satisfied that you could make money by the job?—A. Yes, I think I could make a good living price out of it.

By Mr. GRISWOLD:

Q. You are not willing to sell for $2,000?—A. No, I would not sell for $10,000, because I expected to realize a very good profit from it for my time and labor.

By Mr. CHURCHILL:

Q. Do you know of anything further that might throw light upon this inquiry?—A. Nothing further.

WASHINGTON, D. C., *February* 15, 1871.

A. B. MULLETT recalled.

By the CHAIRMAN:

Question. Were advertisements published after the close of last session of Congress, asking proposals for the completion of the St. Paul custom-house?—Answer. Before the close of last session, in consequence, perhaps, of an impression that I was a little extravagant, or in consequence of that charge having been made, a proviso was attached to the appropriation for the St. Paul custom-house, that no more money should be expended until a contract were made limiting the total cost to $300,000, which reduced the cost of the building over $70,000 below our estimates. We advertised for proposals in the St. Paul papers. I hand to the committee an abstract of the bids received:

John Green, Stillwater, Minnesota	$129,580 00
G. W. & A. P. Merrill, St. Paul, Minnesota	138,500 00
Leonard & Stein, St. Paul, Minnesota	128,000 00
A. H. Wilder, St. Paul, Minnesota	136,776 34
F. H. Grindall & Co., St. Paul, Minnesota	110,437 00
Richard Dunbar, Washington, D. C	96,513 46

Mr. Dunbar was the only bidder who had not examined the building in its present condition, and taken an inventory of the materials on hand. He based his bid entirely on the photographs which he saw in our office, and on such information as we could give him. All the other bidders had inspected and examined the work themselves.

Q. When were these bids opened?—A. On the 4th of June, 1870.

Q. Had you any interview with Mr. Dunbar in reference to his bid, after it was opened and before the 10th of June?—A. He was in the office every day and almost bored me to death. He seemed to be part of the office furniture. He would plant himself at my desk, and sit there for hours at a time. He became a first-class nuisance. I told him (and a letter was written him to the same effect) that it was impossible to do anything in the matter, as none of the bids came within the restriction of the law as to the total amount. He said he had sufficient influence in Congress to effect the repeal of that proviso; and he asked me if his bid would then be considered. I told him I could not answer for the Secretary of the Treasury, but that I would submit it to the Secretary for consideration. I told him, however, that I intended to recommend the Secretary to take no action on it at all until he (Dunbar) had been to St. Paul and examined the condition of the building and the materials on hand, and filed a written statement that he fully understood the situation and was willing to stand by his bid; and that in that case I should make no objection. I did not know anything about Mr. Dunbar except that he had been introduced to me by Senator Carpenter as an applicant for the position of superintendent. He had only one bondsman on his bid, although the advertisement required two.

Q. Was any objection made to the bid on that ground?—A. No. I told the Secretary that I thought General Walbridge, who was on the bid as a bondsman, was good for that amount. My impression was, from the first, that Mr. Dunbar's only object was to get a claim upon the Government.

Q. Did you have any conversation with Mr. Dunbar, in which you referred him to Mr. Wilder, of St. Paul?—A. Mr. Dunbar came to me and asked that the bids should not be definitely rejected, but should be left until the end of the session of Congress. He said he could satisfy me of his responsibility, and that he had a sufficient number of friends in Congress to have the proviso repealed; in which case it was understood that the Secretary would take the matter up and take such action as he saw fit. I told him that I knew that Senator Ramsay was anxious to have the work go ahead, and that Mr. Wilder was here trying to satisfy the committee that his bid was right, and that it would be probably well to see what steps the Minnesota delegation was going to take. I gave him an introduction to Mr. Wilder because they were both interested in obtaining a repeal of the proviso. Mr. Dunbar's bid was the only one that came below the office estimates. All the others were above them. Taking Mr. Dunbar's bid, the cost of the building would have been $61,656 81 beyond the $300,000 limit fixed by law.

Witness presented to the committee the following paper, compiled in his office:

Estimate of amounts expended and due June 1, 1870, and of sums required to complete the building.

Expended	$159,000 00
Due Mr. Wilder for granite cutting	47,312 64
Estimate to complete granite cutting	9,619 31
Due R. Delano, (contractors' stock)	6,084 55
Granite wanted	2,852 85
Estimated cost of cutting inside steps	8,000 00
Other liabilities, (estimated)	10,000 00
Brick	7,074 00
Plate glass	3,500 00
Mantels and grates	5,600 00
Trimmings to doors, &c	600 00
Superintendence, &c	5,500 00
	265,143 35
R. Dunbar's bid for completion	96,513 46
	361,656 81
Appropriated	$200,000 00
Expended for site	16,000 00
For building purposes	184,000 00
	361,656 81
Required to complete in addition to amount already appropriated	177,656 81

Amount estimated as per report to committee January 3, 1870	$378,462 00
Amount of superintendent's estimate October 1, 1869	378,898 78
Highest bid	138,500 00
Lowest bid	96,513 46
To complete by Dunbar's contract	361,656 81
To complete by highest bid	403,643 35
To complete by superintendent's estimate	378,898 78
To complete by office estimate	378,462 00
Average of above estimates	380,665 23
Average of bids submitted	123,301 13

Q. How much was Mr. Dunbar's bid below the office estimate?—A. The office estimate was $78,462, and Dunbar's bid was $61,656 81—$16,805 19 less than the estimate.

Q. When was the office estimate made?—A. It was revised on January 3, 1870, to be transmitted to the Committee on Appropriations.

Q. Do you know how many interviews Mr. Dunbar had with Mr. Wilder?—A. I do not know anything about them.

Q. After his interview with Mr. Wilder did he communicate to you what had taken place?—A. I do not know what he said; but he never said anything to lead me to imagine for a moment that he had been negotiating with Wilder about withdrawing his bid. If he had I would have immediately recommended the Secretary to cancel his bid. There has been no instance since my connection with the office in which any bidder was permitted to withdraw his bid or to sell his bid. In fact, such a thing is positively forbidden by the regulations of the Department.

Q. Had Mr. Wilder intimated to you a desire on his part to see Mr. Dunbar?—A. No, sir; Wilder has stated emphatically that the work could not be done at less than his bid, and that he would not take it at less.

Q. How much was Wilder's bid above the office estimate?—A. About $23,437. There were no bids that came below the office estimate except Mr. Dunbar's and Mr. Grindall's, and these were the only two bids that could have been considered had the proviso been repealed.

Q. How many bids stood between Dunbar's and Wilder's?—A. Three. Wilder was the highest but one. I think that Wilder's was inadmissible under any circumstances. It was a very high bid, although I do not believe it was anything more than would allow a fair profit to the contractor.

Q. Do you know the Morris Mining Company?—A. I have the misfortune to know something about it. I am treasurer of the company, and have my notes out to carry the thing along.

Q. When was that company organized?—A. Fifteen or sixteen months ago.

Q. Do you know Mr. Thorpe connected with it?—A. Yes, Mr. William Thorpe. Dr. Kane came on here from Colorado, either as the owner or the representative of the owner of the property, and I understood that he employed Mr. Thorpe to find some parties here who would go into it. At first, I did not care about going into it; I did not think I had any time to attend to it, and I did not like to run any risk. Finally I went up and asked the Secretary of the Treasury if he saw any impropriety about it. He said that it was a private matter entirely, and that he had no advice to offer; but he had no objection, and I concluded to go into it, as I thought there was a prospect of making a little out of it.

Q. What amount of stock have you?—A. I had one hundred shares originally, and I have the same amount now. I have neither bought nor sold.

Q. What was the par value?—A. One hundred dollars a share.

Q. What was the amount of the capital stock?—A. Six hundred thousand dollars.

Q. Did Mr. Thorpe ever call on you with Mr. Dunbar?—A. I am not positive. My impression is that he did. I know that he made a proposition that Mr. Dunbar should sell stock for us, which I refused to consent to. I would not trust either Mr. Thorpe or Mr. Dunbar with the stock of the company. Neither of them ever had any of the company's stock in his hands.

Q. What time did you see them?—A. I do not know. My first introduction to Dunbar was through Senator Carpenter. He came as an applicant for any kind of superintendency under the Department. This was four or five months before any thing came up about the St. Paul custom-house.

Q. How much stock of the Morris Mining Company did Thorpe hold?—A. I do not recollect. He was a stockholder.

Q. Was he a director in the company?—A. He was at that time.

By Mr. MUSSEY:

Q. Is he now?—A. No, sir; he resigned in consequence of action which I took in the meeting. I found that he was lying in every direction. He would tell one man that the stock was 75 cents on the dollar, and he would tell another that it was 50 cents, when, at the same time, the company was only asking 35 cents for the stock.

In fact, he told so many lies that we could not sell any stock. He could not tell the same lie twice.

By the CHAIRMAN:

Q. Did you ever say to Mr. Dunbar that any arrangement he might make with Thorpe would be all right?—A. I never talked directly or indirectly to Mr. Dunbar about the business of that company, except to say that I would not have anything to do with it; that any arrangement he might make with Thorpe would be about Thorpe's own stock.

Q. Had Mr. Thorpe paid anything into the company?—No, sir; the stock he held he received for organizing the company, as I understood. Dr. Kane told me that Thorpe had deceived him, and that he had given Thorpe a certain amount of stock to organize the company.

Q. With reference to Mr. Dunbar, did you not understand that he was an old contractor?—A. Yes, sir; I understood he was an old contractor.

Q. And that he had been in that business a great many years?—A. Yes.

Q. And you considered his surety entirely sufficient?—A. I considered General Walbridge's security sufficient for any reasonable amount.

Q. Then why should there be any such hesitation about taking the bid?—A. The difficulty was on the restriction in the law. If that difficulty had been got rid of there would have been no objection, except so far as to require him to go to St. Paul and see the work, so that he would have no excuse afterward to make a claim. No man could bid honestly on a work of that kind without seeing it.

Q. Could not inquiries be made?—A. There were no data in the office to supply the information. If it were to erect a building *de novo* a man could bid upon it; but as it was to complete a building, no man could bid properly on it without examining the work and the materials on hand.

Q. If Mr. Dunbar, an old contractor, and having a responsible surety, was willing to take the responsibility, why should there be any hesitation at the office about it?—A. Last session Congress passed a bill relieving Captain H. Grant from a contract for a building at Norfolk on precisely that excuse—that he was sick at the time and not competent to examine the plans. I did not propose to give Mr. Dunbar any loophole for extras. That has been the universal practice of the office.

By Mr. MUSSEY:

Q. Can you mention any recent cases?—A. Yes, the cases of the contracts for the marble work and granite work on the Portland court-house. Both of these contracts were taken too low, and the contractors made claims. I told them at the time that the bids were too low; that I would be very glad to have them sign the contracts, but that I wished them to understand that they could not come back on the office for allowances.

By Mr. GRISWOLD:

Q. You are obliged by law to accept the lowest bid?—A. I have nothing to do with it. I make my report to the Secretary of the Treasury. We always take the lowest bids, but when we consider them too low we have always placed them on record as taking the contract at a rate which the office considered too low.

By Mr. ELA:

Q. Do not the photographs and the monthly returns in your office show the exact state of the work?—A. The photographs show the outer walls, but not the interior of the work nor the amount of materials on hand.

Q. Would not the superintendent's report show the exact amount of the materials on hand?—A. Yes; but it would not show the amount of work necessary to be done.

Q. Does not the monthly statement show the exact condition of the interior work, which the photographs do not show?—A. It shows it to us, but we have no right to exhibit our computation to others.

Q. Does not the monthly statement show the amount of material on hand just as well as if the bidders were on the ground to see it?—A. No, sir; the bidders might claim afterward that the information was false.

Q. Was there anything which a bidder would need to be informed about, which your plans did not show him, except the amount of stone got out ready to be put into the building?—A. Yes, sir.

Q. What else in the way of materials would he need to learn about?—A. I have tried to answer that question. We could not give him the exact condition of the building any further than as it was shown by the photographs. A man with the greatest care in the world might readily make a great mistake unless he examined the work and materials on the ground. Mr. Dunbar's bid exhibited so great a discrepancy that I told the Secretary, and the Secretary concurred with me, that Mr. Dunbar should go and look at the work and say that he was willing to take it at his bid before the contract was awarded to him.

Q. Your photographs show the exact condition of the outside of the building?—A. Yes, sir.

Q. And would not the interior work necessarily go on in the same proportion?—A. Not at all. The exterior walls might be put up without any of the interior work being built.

Q. What else was there on the ground, except the limestone, which the Government was to furnish?—A. There were brick in the iron beams, if my memory is correct. Whatever there was we had a schedule of.

Q. The iron beams were furnished on contract?—A. Yes.

Q. And the bidder would have nothing to do with them?—A. No, sir.

Q. Then why could he not make as good an estimate here as at St. Paul?—A. That is a question which every member of the committee can answer for himself; I can only say that I, with my experience, would not do it, and I do not believe that any honest contractor would do it; the quality of the work to be done was fixed by the work already done, and nobody could determine that without an examination of it.

Q. Could not a person form a clear idea from a photograph of the building?—A. I could not do it.

By Mr. MUSSEY:

Q. Do you, as an architect, believe it to be possible?—A. I would not do it in any question involving any amount of money.

By Mr. ELA:

Q. Is Mr. Knight still superintendent there?—A. Yes.

Q. What are his duties?—A. He has simply to remain in charge of the building; they are completing the cutting of the granite work.

Q. When was the work suspended?—A. When that proviso was put in the law, except so far as relates to the custody of the building and the superintendence of the granite work; nothing has been done since January, 1870; that is why the Secretary of the Treasury has called attention to the fact that the suspension of work on public buildings is increasing their cost every year.

Q. Who made the estimates in your office of the cost of the building?—A. The computers in the office; an estimate was made of the total cost of the building, and from that the amount already spent was deducted.

By the CHAIRMAN:

Q. Might it not be true that the cost of the work, up to the point it went, exceeded or fell short of the estimate, thus affecting the balance?—A. The difficulty in answering such questions is that, to make the committee understand the matter, I would have to teach the members my profession.

By Mr. ELA:

Q. How many estimates have you had of the cost of the building?—A. I do not know.

Q. How many have you made?—A. I do not know that there have been two estimates made; there was a fraudulent estimate made by Mr. Oetley, which has been already explained to the committee; the other was made by Mr. Rankin.

Q. Has there been any variation of the building from the estimate then made?—A. Not that I know of.

Q. Has there been any variation in the cost of the stone?—A. Not that I know of.

Q. How many contracts have you made for the cutting of the granite?—A. Only one.

Q. Did you not make one with John Stuart & Co.?—A. I believe you have got it on the record. I refer you to the record.

Q. Did you afterward carry on that stone-cutting by days' work?—A. You have got it on the record.

Q. Is it so?—A. You have it on the record. I refer you to the written record.

Q. You say that you got at the amount required to complete the building by taking the original estimates and deducting from them the amount expended?—A. The only thing really valuable about the original estimate to an architect is the quantities. Everything depends upon them; and the computation of them is a work of a great deal of labor.

Q. What was your connection with procuring the Vaux roofing patent?—A. I aided him in explaining the matter before the examiners.

Q. In what way?—A. I went before them personally and explained the matter to them.

Q. What was your interest in the patent after that explanation?—A. I was given a half interest in it.

Q. What was the consideration for that half interest?—A. I do not know what the consideration was. Mr. Vaux said that he would not have got the patent but for my assistance, and he gave the half interest to me voluntarily and of his own free will. I should have done as much for him if I had not got any interest in it.

Q. What did you receive for your interest in the patent when you sold it?—A. I cannot tell; I sold it in detail.

Q. Has that patent ever been used by anybody but the Government?—A. I do not know; I only know that wherever it has been used by the Government it has accomplished the object for which it was designed.

Q. In your contract for roofing with Shepherd & Co., do they furnish the materials?—A. I have no contract with them. The Secretary of the Treasury annulled mine and made one himself. The terms are slightly modified; I cannot state the difference. I am satisfied that the use of this patent is the most advantageous arrangement ever made for the Government. If the roofs of the public buildings had been originally laid in that manner, every dollar since spent on them would have been saved. A copper roof, properly made, is imperishable.

Q. How do you get at the amount of materials used by them on which they are allowed 15 per cent.?—A. Our superintendent receives and takes an account of them—all that is bought on the premises, and all that is taken away.

Q. Is there any report from the superintendent which shows the amount of material left over from any of those jobs?—A. In every case we get a report from the superintendent, or get a certificate that there is nothing left over.

Q. Who makes the orders for the locks used on the Treasury Department, which came from the Johnson Rotary Lock Company?—A. The locks are generally supplied on my order; we get proposals from different parties from time to time. We simply bought of this company because they sold locks cheaper than any one else.

Q. Have contractors under you ever made any subscriptions to the stock of the Morris Mining Company, under such circumstances that you ordered them canceled?—A. Mr. Delafield, of New York, I believe, bought ten shares, and sent me a check for the amount. The stock was not bought through me, nor did I know anything about the circumstances. I took the check to Mr. Hulburd, and asked him to return it, saying that I preferred that no contractor should subscribe for that company's stock. I did not wish it. It was of no particular advantage to me. The board of directors had agreed that we would neither buy nor sell stock, until it became valuable. I have never asked any contractor to subscribe to that stock, nor sent any one to make such a request, and I have no reason to believe that anybody ever said such a thing, except Mr. Thorpe. What he may have said, I do not know. I have not tried even to induce my friends to take that stock. Two or three of them asked me about it, and I told them that if they took it, it was without my advice.

By Mr. GRISWOLD:

Q. What was the amount of that check?—A. Three hundred dollars.

Q. Are you sure that it was not for $1,000?—A. I never saw a check for that company for $1,000.

By the CHAIRMAN:

Q. You had a patent yourself for an improvement in locks, which you sold to the Johnson Rotary Lock Comeany?—A. yes; years ago.

Q. Had you purchased locks of that company before that sale of your patent?—A. I do not know whether I had or not.

Q. Have you since such sale?—A. O, yes; of course I have.

Q. To what extent?—A. That company and the Yale Company are furnishing locks for the post office boxes throughout the country. We used to buy our locks of Robinson, of Boston, but the others are making the same locks at a less price, and just as good. I prefer generally the locks made by the Townsend Company, but they have been asking too high a price.

By Mr. GRISWOLD:

Q. What did you sell your patent to that company for?—A. I sold it for $1,000.

By the CHAIRMAN:

Q. Can you state anything about the annual purchase of locks from that company?—A. No, sir; it is very trifling. The best locks, judging from the samples we have got, are theirs and the Townsend Lock Company's, of New York; but these are very costly. The locks of Russel & Erwin Manufacturing Company are good ones; but they ask prices which the appropriation would not afford me to pay for. The only reason that I have bought from the Johnson Rotary Lock Company is, that they furnish a class of good suitable locks, at less price than we can get such locks for anywhere else.

Q. The locks which you purchase from them do not have the improvement which you patented?—A. O, no; that has nothing to do with the business of the Government. They have got it attached to some of the locks on post office drawers, and to some they have not.

WILLIAM THORPE sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?—Answer. My home is in St. Louis, I reside temporarily in Baltimore.

Q. Do you know Mr. Mullett, Supervising Architect of the Treasury?—A. Yes.

Q. Do you know anything about the Morris Mining Company?—A. I do.

Q. What connection have you had with that company at any time?—A. At one time I was one of the incorporators and one of the trustees; I am now a stockholder only.

Q. To what extent?—A. I believe I own about $158,000 of the stock.

Q. Do you know Richard Dunbar?—A. Yes, sir.

Q. Did you ever call with him on Mr. Mullett?—A. Not that I know of; I believe I met him on one occasion in Mr. Mullett's room.

Q. What conversation, if any, did you have with Mr. Dunbar and Mr. Mullett at that time?—A. At that time Mr. Mullett was treasurer of the company. The company needed funds to carry on its operations at the mines. As I was largely interested in it, I made all the effort I could to raise additional funds. Mr. Dunbar had previously called at the office of the company and we had had some conversation about those mines. He told me about some mineral springs, and I told him about our wanting to raise some funds. He said he had a good many friends in New York, moneyed men, whom he could influence to go into it. I told him that I had no authority to make arrangements with him, but that if he could raise money for the company we would pay him for it. I introduced him to General Dent, who was a trustee of the company at that time. General Dent took a good deal of interest in Dunbar and gave him two letters to friends in New York. I afterwards met Mr. Dunbar in Mr. Mullett's office. I mentioned it to Mr. Mullett and asked him whether he knew Dunbar, and whether he was reliable and whether he would do to work for us. Mr. Mullett said to me, "You can make whatever arrangements with him you please, and it will be all right."

Q. That is, that you could make any arrangements with Dunbar that you pleased?—A. Yes, to sell this stock.

Q. Was there anything else said on that occasion?—A. No, sir; nothing else. I may have seen Mr. Dunbar once or twice afterwards. He told me that he had some business with Mr. Mullett about some building in Minnesota or Wisconsin. He and Senator Carpenter, I think, he told me working at something; but I do not recollect exactly what it was. I then went to the president of the company, Colonel McGruder, and told him that Mr. Dunbar wanted to take some of the stock to New York to sell. Colonel McGruder refused to issue it to him, unless he paid for it. I was fully impressed with the belief that Mr. Dunbar could do something in the matter, and I gave him $5,000 of stock of my own, which he promised to sell for me, I intending to give that money to the company and to take the same amount of stock from the company, provided he sold it.

Q. What did he do with the stock?—A. He returned it after a while; I demanded it of him; I did not care to trust him with it; he returned it all right.

Q. Was there any connection between his taking this stock and endeavoring to sell it, and the bid on this building at the West, so far as you understand?—A. Not that I know anything about. I had nothing to do with the building. I never mentioned anything of the kind.

Q. Had Mr. Mullett ever mentioned this man, Dunbar, to you as a person who would sell stock?—A. No sir; I introduced him to Mr. Mullett and to all the trustees of the company but one or two; I had known him before.

Q. Was anything said in the conversation between yourself and Mr. Dunbar about parties in New York, who were contractors for or connected with the new post office building there, having taken any of the stock?—A. No, sir; not that I recollect.

Q. Do you know anything about whether it was true that any of the stock had been negotiated with any of the parties connected with the New York post office?—A. No, sir. I never negotiated any of the stock, except in two cases here with two gentlemen. One of them was Dr. Antisell, and another was Mr. Poe, of Georgetown. These were the only two men that I ever had anything to do with in connection with the stock of the company.

Q. Did you have anything to do with bringing Mr. Dunbar to Mr. Mullet's office?—A. No, sir. I met him there. I do not think I ever went there with him. I think I met him there two or three times; but only once that I had any conversation with him on the subject of this stock.

Q. Do you know of any instance in which that stock was negotiated or attempted to be negotiated with contractors or persons doing work under the charge of the Supervising Architect of the Treasury?—A. I believe that I spoke to Mr. Mills, who was a clerk in Mr. Mullett's office, and to another young man there, also a clerk. Those were the only parties I spoke to about taking some of the stock.

Q. That was for themselves to take it?—A. Yes.

Q. Have you heard of any instance in which it was attempted to negotiate this stock with contractors upon public works?—A. I have no knowledge of that kind.

Q. Have you any information of the subject?—A. No, sir, except that about a year ago General Crittenden, who was then secretary of the company, went to New York on this business, and he told me that a gentleman employed there, by the name of O'Beirne, was going to take some of the stock.

By Mr. GRISWOLD:

Q. Did you tell Mr. Dunbar or any one else that it was usual for contractors on Government work to take that stock?—A. No, sir.

Q. And that if they took it their contracts would be all right?—A. I never told anybody any such thing; I never knew of such a thing.

Q. What did your stock cost you?—A. I do not remember exactly what it cost me. I went into the purchase of the property; I was to pay a certain amount of money and to take a certain proportion of the stock.

Q. And then you helped to get up the company, and the stock was divided around?—A. Yes.

By Mr. PHELPS:

Q. You spoke about meeting Mr. Dunbar at Mr. Mullett's office; was that meeting accidental?—A. Entirely accidental.

Q. Not by any previous arrangement?—A. No, sir.

JAMES A. MCGRUDER sworn and examined.

By Mr. MUSSEY:

Question. State your connection with the Morris Mining Company.—Answer. Some fifteen months ago they proposed here in Washington to raise a company to be called the Morris Mining Company of Colorado, to prosecute a tunnel which had been already commenced. Dr. Kane, as I understood it, had bought this property, and had made a contract to run a tunnel 300 feet. They had got about 90 feet with the tunnel, and then ran out of funds. They thought they would have a good thing of it, as there were a great many lodes which they thought they would strike in the course of that 300 feet of tunneling. After inquiries from parties whom I knew, and who knew something about the country, and particularly of Dr. Kane, who I understood was a very reliable man, I went into it. They offered to make the stock $600,000; to give the trustees, or directors, $10,000 each, a hundred shares; and they retained so much, and then put a thousand shares, or $100,000 worth of stock, in the hands of the company as a working capital, to go on and prosecute the work. They had paid for the tunnel as far as it had gone, 90 feet. The company was formed upon that basis. We went to work, and agreed to sell the stock at 30 or 35 cents on the dollar, just as fast as we could get the money to carry out the contract made with Mr. Morris for the running of the tunnel. Dr. Antisell was one of the directors. He bought some five or six hundred dollars' worth of stock in his wife's name, and Poe invested some five or six hundred dollars. Mr. West, of the Treasury Department, went to Mr. Mullett and said that he had some money and that he was going to put it in the Morris stock. Mr. Mullett told him not to do it. He said, "If you have got any money which you can afford to lose, I believe it is a good thing, but it is nothing but a speculation;" and he advised Mr. West not to take it, and he did not take it. Crittenden went to New York and sold about $1,000 worth of stock to different parties. Among others he sold ten shares to Mr. Delafield, at 35 cents on the dollar, making $350. For a certain reason the checks were made payable to Mr. Mullett's order, as treasurer of the company. I happened to meet Mr. Mullett in New York, accidentally. He came to me in a good deal of excitement, and said to me, "Colonel, here are a lot of checks which Crittenden gave to me, and which are payable to my order. I am not going to use these checks, because the next thing would be that I would be accused of making use of my position to sell this stock." I said, "Give me the checks, and do you just keep quiet." After talking to him for about ten minutes I got the checks and told him that I would make it all right. I went to Mr. Delafield, the only man connected with the Government who had bought any of the stock, and I stated the circumstances to him. I said, "Mr. Delafield, Mr. Mullett does not want you to take this stock as a favor to him. I believe that it is good stock, and if you can afford to lose $350 I would advise you to take it; but if $350 is a matter of bread and butter to you I advise you not to take it." He said that he would take it. He tore up the check and drew another check in my favor. Mr. Delafield understood the whole thing.

Q. You say that nobody else in New York who had any connection with the Government took any stock in that company?—A. No one else, that I know of. And as an evidence of it there has not been $5,000 of the $100,000 of stock sold. We have been carrying on the work, by borrowing money on our own individual responsibility, until we have got the tunnel in 300 feet. It is represented as first-rate property, and we

have been trying to retain it. The contractor sued us last September. We could not raise the money to pay him, and he prosecuted his suit to a judgment, which was only paid the other day by the individual trustees here giving their individual notes and raising money to pay it. We have paid for 214 feet of tunnel, at $25 a foot, and there was about $1,000 spent on a lode which was struck. That is about all the money spent by the company.

Q. About what time was this sale made by Crittenden to Delafield, in New York?—A. I think it was last spring. I happened to know this much about the Dunbar matter: Mr. Thorpe came to me and wanted me to issue stock of the company for Mr. Dunbar to sell. I said I would do no such thing; that I did not know anything about Mr. Dunbar, and that I was not going to throw the stock of the company into the hands of Tom, Dick, and Harry. He went off and came back afterwards and said, "I want you to sign some certificates of stock of mine. I know Mr. Dunbar. I will give him my stock, and when he sells it I will then take the same proportion of stock from the company, and turn the money into the treasury of the company." But we have never seen any of it. Mr. Mullett told me at the time that Mr. Thorpe had made the same proposition to him, and that he had refused to do it. I have heard Mr. Thorpe's statement here. It is about as correct as anything can be.

By Mr. MUSSEY:

Q. You confirm it entirely, so far as your knowledge goes?—A. There is no doubt about it. I think that is the whole state of the case. We thought we had a good thing of it, and we think so yet.

By the CHAIRMAN:

Q. State whether any stock of either of those companies has ever been sold or negotiated to any person connected with contracts for buildings for the Government?—A. I think not. With the exception of Delafield, I do not know of anybody else.

Interrogatories proposed to be submitted to Mr. A. H. Wilder, on behalf of Mr. Mullett.

1. Were you one of the bidders for the completion of the St. Paul custom-house? If so, what was your bid and upon what was it based; personal inspection of the work, or estimates, and if so, whose, or both?

2. Do you know Richard Dunbar? If so, when did you first become acquainted with him?

3. If you answer that you know Richard Dunbar, please state whether you ever had any conversation with him relative to the bids for the completion of the custom-house at St. Paul, and if you had any conversation or conversations, please state them or it fully and at large?

4. Was your bid, if you made one for the completion of the St. Paul custom-house, accepted or refused? State any conversation you had with Mr. Mullett concerning your bid and others' bids, if you had any conversation with him on the subject?

R. D. MUSSEY,
for Mr. Mullett.

Answers of Amherst H. Wilder, of St. Paul, Minnesota, to the annexed interrogatories propounded to him on behalf of A. B. Mullett, in the matter of the investigation pending before the Committee on Expenditures on the Public Buildings of the House of Representatives of the United States, at Washington, D. C., said answers being taken and reduced to writing by Harvey Officer, a notary public in and for the county of Ramsey, and the said Amherst H, Wilder having been first duly sworn to make true answers to the said annexed interrogatories.

In answer to the first interrogatory he saith: I was one of the bidders for the completion of the St. Paul custom-house. My bid was one hundred and thirty-six thousand seven hundred and seventy-six dollars and thirty-four cents, ($136,776 34.) My bid was based upon personal inspection of the work, upon estimates made by parties in St. Paul, and more particularly upon estimates made for me by J. K. Place, of St. Paul.

In answer to the second interrogatory he saith: I do know Richard Dunbar. I first met him at the National Hotel, at Washington, D. C., about the 15th or 20th of June, 1870, he having then called upon me at that hotel, where I was then stopping.

In answer to the third interrogatory he saith: At the time he first called upon me at the National Hotel, at Washington, about the time above stated, I did have a conversation with him relative to the bids for the completion of the St. Paul custom-house. We discussed the various bids (there having been six bids in all) made for the completion of the St. Paul custom-house, and the prospect of getting such legislation as would enable the Secretary of the Treasury to act upon the bids referred to and then under discussion between us. Dunbar thought this could be done, as he had influen-

tial friends in Congress who would interest themselves in his behalf. He said if the contract could be had at my bid it would pay well. I replied, I thought the price named in his own bid, and in that of Grindall, was much less than it would cost to complete the building, and that I did not suppose his (Dunbar's) bid was put in to be taken up, but to be in the way of the bids of other parties. Dunbar said he had bid, expecting to do the work if the contract should be awarded to him, and that there was some money in it, he thought, at the figures of his bid; however, that he would withdraw his bid for a reasonable sum, and let it run up to the bids of the St. Paul parties. I told Mr. Dunbar that while I should be very glad to have the contract for the completion of the building, I was more anxious that a contract should be awarded to some one for the immediate completion of the building, for the reason that until that time I could not get my pay for the granite-cutting, or for the granite furnished, and which then amounted to about $40,000. This is the substance of our conversation on the subject at this first meeting; and at parting with him on that occasion we both agreed to see our friends in Congress, and request them to get such legislation as would enable the Secretary of the Treasury to make a contract for the completion of the building. I do not think I ever met Mr. Dunbar to have any conversation with him on this subject, after date of the interview above mentioned, until after the appropriation bill in which $100,000 was appropriated for the St. Paul custom-house had passed the House, and which bill was approved July 15, 1870. The next day—I think it was—after the passage of this appropriation bill in the House, Dunbar called upon me at the hotel and insisted that it would be to my interest to get his bid out of the way, as he was satisfied I could get the contract for completing the building if I did so. I replied that no contracts could be awarded upon any of the bids made, as the restriction in the bill appropriating $100,000 for the building necessarily prevented the award of a contract on any of the bids made. Dunbar then said that he knew I would get the contract in the end if he was out of the way, and that he would withdraw his bid for $5,000. I declined to accept his proposition. I told him he would not be allowed to withdraw his bid; that I had asked Mr. Mullett if a bidder would be allowed to withdraw his bid, and that he (Mullett) told me it could not be done; and that if authority was given to make a contract for the completion of the St. Paul custom-house, that contract would be offered to Mr. Dunbar; and that if he refused to accept it in accordance with his bid, he would prosecute his bondsmen. This was the last conversation I had with Dunbar, and the last time I saw him.

In answer to the fourth interrogatory he saith: My bid for the completion of the St. Paul custom-house was refused. I received written notice of its refusal from A. F. Knight, superintendent United States custom-house at St. Paul. I asked Mr. Mullett if he thought Mr. Dunbar could complete the St. Paul custom-house for the price named in his bid. He replied that in his opinion he could not. I then asked him (Mullett) if he would allow Dunbar to withdraw his bid. His reply was, that he would not; that Dunbar's bond was a good one, and he would force him to carry out the contract according to his proposition, if authority was granted to make a contract. I told Mullett I should like the contract. He replied, he should be glad to see me have it, but that as I was not the lowest bidder there was no way for me to get it. I then abandoned all idea of getting my bid considered. This conversation with Mullett was soon after my first conversation with Dunbar, and before my second interview with him, and was the only conversation that I ever had with Mullett (that I recollect of) relative to withdrawing bids, or considering mine. I do not pretend to give the exact language used by Mr. Mullett in the conversation, but the above is the substance of all conversations with him in relation to this matter, and the same remark applies to my conversations with Mr. Dunbar.

A. H. WILDER.

Subscribed and sworn to before me this 22d day of February, A. D. 1871.
[SEAL.]

HARVEY OFFICER,
Notary Public, Ramsey County, Minnesota.

41ST CONGRESS, 3rd Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 52.

REMOVAL OF THE NATIONAL CAPITAL.

MARCH 3, 1871.—Ordered to be printed.

Mr. COBURN, from the minority of the Committee on Public Expenditures, submitted the following

AS THE

VIEWS OF THE MINORITY

The Committee on Public Expenditures, to whom were referred the resolution of Mr. Crebs, of Illinois, in relation to the removal of the national capital to the Mississippi Valley, and the memorials of a large number of citizens of different parts of the United States pertaining to the same subject, having resolved to recommend that the same be reported back with the recommendation that they be laid on the table, the minority of the committee, dissenting from their views, beg leave to submit the following report:

In order to look fully into the whole subject it will be necessary to repeat briefly the history of the location and continuance of the Capital in its present situation, and to refer to those constitutional provisions and legislative enactments which relate to it. At the time of the adoption of the Constitution no place had been selected, and a provision looking to a seat of Government was inserted in the Constitution, which may be properly quoted, and, being the seventeenth of the enumerated powers of Congress, is in the following words:

> The Congress shall have power * * * to exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.

It may be well to note, in passing, that this power as to the District for the seat of Government is classed with that over forts, dock-yards, arsenals, and other needful buildings. There seems to be no power to fix permanently the capital at any point, but, like a dock-yard or arsenal, it is to be located where it is needed, to remain there while necessity may require it, and no longer. There is nothing else in the Constitution looking to the founding and building of a national capital. The point definitely determined was the power to exercise exclusive legislation.

The only mention in the Constitution of the seat of Government thus being incidental, and occurring in the enumeration of the places where Congress has exclusive power of legislation, we are left to infer that it is equally applicable to the seat of Government wherever situated, whether on the Potomac, the Ohio, the Mississippi, or the great Plains. This exclusive power is the single, permanent, unalterable thing; the location is nothing—is not mentioned. It were as sensible to say that a dock-yard or an arsenal shall be a dock-yard or an arsenal forever because they have once been located and jurisdiction ceded, and that

they shall be perpetually kept for those uses, though the very channels of the sea should be obstructed and every element of use or defense be annihilated.

But, as if to put this matter forever at rest in relation to this very subject, in the 43d number of the Federalist, written by Mr. Madison, we find the argument used in favor of giving Congress the exclusive power of legislation over the District that it thereby should have the untrammeled power of removal. We quote the passage as follows:

> The indispensable necessity of complete authority at the seat of Government carries its own evidence with it. It is a power exercised by every legislature of the Union—I might say of the world—by virtue of its general supremacy. Without it not only the public authority might be insulted and its proceedings be interrupted with impunity, but a dependence of the members of the General Government on the State comprehending the seat of the Government for protection in the exercise of their duty might bring on the national councils an imputation of awe or influence equally dishonorable to the Government and dissatisfactory to the other members of the Confederacy. This consideration has the more weight as the gradual accumulation of public improvements at the stationary residence of the Government would be both too great a public pledge to be left in the hands of a single State, and would create so many obstacles to a removal of the Government as still further to abridge its necessary independence.

Here, then, we find one of the fathers of the Constitution expressly stating that the only provision in it concerning a national capital was framed with a view to its removal, and in the most emphatic manner calling attention to it as containing one of the powers necessary to the maintenance of a free and independent government. We may then say with some assurance that it was not intended at the foundation to make the capital immovable, the Constitution being framed expressly to exclude such an idea and the acts of cession containing no conditions to that effect. Had it been intended otherwise, both the Constitution and the acts of cession and acceptance would have contained such positive provisions.

In a debate upon this clause of the Constitution Mr. Madison, among other things, said:

> Was there ever a legislature in existence that held their sessions at a place where they had not jurisdiction? * * * * * * * * * When the honorable member objects to giving the General Government jurisdiction over the place of their session, does he mean that it should be under the control of any particular State, that might at a critical moment seize it? I should have thought that this clause would have met with the most cordial approbation. As the consent of the State in which it may be must be obtained, and as it may stipulate the terms of the grant, should they violate the particular stipulations it would be an usurpation.

The whole matter in controversy was as to the exclusive control of the place; not that it should be fixed permanently in one place. No terms making the place permanent were affixed to the act of cession; nothing of the kind was thought of. On the contrary, in another speech in 1790 he says that the law fixing the capital at Washington may be repealed, as follows: "It is said that before the ten years expire a repeal of the act may take place, and thus Congress be kept at Philadelphia. But what more can we do than pass a law for this purpose? It is not in our power to guard against a repeal. Our acts are not like those of the Medes and Persians, unalterable. A repeal is a thing against which no provision can be made. If this is an objection it holds good against any law that can be passed."

Before the final location of the capital at Washington the sessions of Congress were held at different places, such as Philadelphia, New York, Princeton, and Annapolis. It was deemed best to have some resting place for the Government, where the officers should reside permanently

and the sessions of Congress be regularly held. Several acts of Congress were passed, which follow in the order of their date.

The following act locating the seat of Government at its present place was passed by the First Congress, July 16, 1790, while in session at New York:

AN ACT for establishing the temporary and permanent seat of the Government of the United States.—
[First Congress, sess. ii, ch. 28, U. S. Statutes at Large.]

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a district of territory, not exceeding ten miles square, to be located as hereafter directed, on the river Potomac, at some place between the mouths of the Eastern Branch and Connogochague, be, and the same is hereby, accepted for the permanent seat of the Government of the United States: *Provided, nevertheless*, That the operation of the laws of the State within such district shall not be affected by this acceptance until the time fixed for the removal of the Government thereto, and until Congress shall otherwise by law provide.

SEC. 2. *And be it further enacted*, That the President of the United States be authorized to appoint, and, by supplying vacancies happening from refusals to act or other causes, to keep in appointment as long as may be necessary, three commissioners, who, or any two of them, shall, under direction of the President, survey, and, by proper metes and bounds, define and limit a district of territory under the limitations above mentioned; and the district so defined, limited, and located shall be deemed the district accepted by this act for the permanent seat of the Government of the United States.

SEC. 3. *And be it further enacted*, That the said commissioners, or any two of them, shall have power to purchase or accept such quantity of land on the eastern side of the said river, within the said district, as the President shall deem proper for the use of the United States; and, according to such plans as the President shall approve, the said commissioners, or any two of them, shall, prior to the first Monday in December, in the year one thousand eight hundred, provide suitable buildings for the accommodation of Congress and of the President, and for the public offices of the Government of the United States.

SEC. 4. *And be it further enacted*, That for defraying the expense of such purchases and buildings the President of the United States shall be authorized and requested to accept grants of money.

SEC. 5. *And be it further enacted*, That prior to the first Monday in December next all offices attached to the seat of Government of the United States shall be removed to, and until the said first Monday in December, in the year one thousand eight hundred, shall remain at the city of Philadelphia, in the State of Pennsylvania, at which place the session of Congress next ensuing the present shall be held.

SEC. 6. *And be it further enacted*, That on the said first Monday in December, in the year one thousand eight hundred, the seat of the Government of the United States shall, by virtue of this act, be transferred to the district and place aforesaid, and all offices attached to the said seat of Government shall accordingly be removed thereto by their respective holders, and shall, after the said day, cease to be exercised elsewhere; and that the necessary expense of such removal shall be defrayed out of the duties on imports and tonnage, of which a sufficient sum is hereby appropriated.

Approved July 16, 1790.

The following amendatory act was also passed by the First Congress, March 3, 1791, after the temporary removal of the seat of Government to Philadelphia:

AN ACT to amend an act for establishing the temporary and permanent seat of the Government of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the act entitled "An act for establishing the temporary and permanent seat of the Government of the United States," as requires that the whole of the district of territory, not exceeding ten miles square, to be located on the river Potomac for the permanent seat of the Government of the United States, shall be located above the mouth of the Eastern Branch, be, and is hereby, repealed, and that it shall be lawful for the President to make any part of the territory below the said limit and above the mouth of Hunting Creek a part of the said district, so as to include a convenient part of the Eastern Branch and of the lands lying on the lower side thereof, and also the town of Alexandria; and the territory so to be included shall form a part of the district, not exceeding ten miles square, for the permanent seat of Government of the United States, in like manner and to all intents and purposes as if the same had been within the purview of the above recited act: *Provided*, That nothing

herein contained shall authorize the erection of the public buildings otherwise than on the Maryland side of the river Potomac, as required by the aforesaid act.

Approved March 3, 1791.

The following act, passed May 6, 1796, by the Fourth Congress, while sitting at Philadelphia, provides for the public expense necessary to the permanent establishment of the seat of Government at Washington City, to which place it was removed in 1800:

AN ACT authorizing a loan for the use of the city of Washington, in the District of Columbia, and for other purposes herein mentioned.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the commissioners under the act entitled "An act for establishing the temporary and permanent seat of the Government of the United States," be, and they are hereby, authorized, under the direction of the President of the United States, to borrow, from time to time, such sum or sums of money as the said President shall direct, not exceeding three hundred thousand dollars in the whole, and not exceeding two hundred thousand dollars in any one year, at an interest not exceeding six per centum per annum, and reimbursable at any time after the year one thousand eight hundred and three, by installments not exceeding one-fifth of the whole sum borrowed in any one year; which said loan or loans shall be appropriated and applied by the said commissioners, in carrying into effect the above-recited act, under the control of the President of the United States.

SEC. 2. *And be it further enacted,* That all the lots, except those now appropriated to public use in the said city, vested in the commissioners aforesaid, or in trustees, in any manner, for the use of the United States, now holden and remaining unsold, shall be and are hereby declared and made chargeable with the repayment of all and every sum and sums of money, and interest thereupon, which shall be borrowed in pursuance of this act; and to the end that the same may be fully and punctually repaid, the said lots, or so many of them as shall be necessary, shall be sold and conveyed at such times, and in such manner, and on such terms, as the President of the United States for the time being shall direct; and the moneys arising from the said sales shall be applied and appropriated, under his direction, to the discharge of the said loans, after first paying the original proprietors any balances due to them respectively, according to their several conveyance to the said commissioners or trustees. And if the product of the sales of all the said lots shall prove inadequate to the payment of the principal and interest of the sum borrowed under this act, then the deficiencies shall be paid by the United States, agreeably to the terms of the said loans; for it is expressly hereby declared and provided that the United States shall be liable only for the repayment of the balance of the moneys to be borrowed under this act, which shall remain unsatisfied by the sales of all the lots aforesaid, if any such balance shall thereafter happen.

SEC. 3. *And be it further enacted,* That every purchaser or purchasers, his or their heirs or assigns, from the said commissioners or trustees, under the direction of the said President, of any of the lots hereinbefore mentioned, after paying the price and fulfilling the terms stipulated and agreed to be paid and fulfilled, shall have, hold, and enjoy the said lot or lots so bought, free, clear, and exonerated from the charge and incumbrance hereby laid upon the same.

SEC. 4. *And be it further enacted,* That the commissioners aforesaid shall semi-annually render to the Secretary of the Treasury a particular account of the receipts and expenditures of all moneys intrusted to them, and also the progress and state of the business, and of the funds under their administration; and that the said Secretary lay the same before Congress at every session after the receipt thereof.

Approved May 6, 1796.

We deem it proper next to refer to the acts of cession of Maryland and Virginia in relation to the District of Columbia. These acts are quoted to show the precise terms upon which the cession was made.

The following are the acts of cession of Maryland:

Act of November, 1788.

AN ACT to cede to Congress a district of ten miles square in this State for the seat of the Government of the United States.

Be it enacted by the general assembly of Maryland, That the Representatives of this State in the House of Representatives of the Congress of the United States, appointed to assemble at New York on the first Wednesday of March next, be, and they are hereby, authorized and required, on the behalf of this State, to cede to the Congress of the United States any district in this State not exceeding ten miles square, which the Congress may fix upon and accept for the seat of Government of the United States.

AN ACT concerning the territory of Columbia and the city of Washington.—[Lib. J. G. No. 1, fol. 431; Supplements number 1792, ch. 59, 1793, ch. 58.]

2. *Be it enacted by the general assembly of Maryland*, That all that part of the said territory called Columbia, which lies within the limits of this State, shall be and the same is hereby acknowledged to be forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction, as well of soil as of persons residing, or to reside, thereon, pursuant to the tenor and effect of eighth section of the first article of the Constitution of Government of the United States: *Provided*, That nothing herein contained shall be so construed to vest in the United States any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States: *And provided also*, That the jurisdiction of the laws of this State over the persons and property of individuals residing within the limits of the cession aforesaid shall not cease or determine until Congress shall by law provide for the Government thereof, under their jurisdiction in manner provided by the article of the Constitution before recited.

In passing we remark that in another section of this act of cession there is to be found the condition that liquors shall not be sold in the District in a less quantity than ten gallons at one time, thus securing temperance forever in the District; but one that seems not to be binding and effectual.

The following is the act of cession of Virginia:

AN ACT for the cession of ten miles square, or any lesser quantity of territory within this State, to the United States in Congress assembled, for the permanent seat of the General Government. [Passed the 3d of December, 1789.]

SECTION 1. Whereas the equal and common benefits resulting from the administration of the General Government will be best diffused, and its operations become more prompt and certain, by establishing such a situation for the seat of the said Government as will be most central and convenient to the citizens of the United States at large, having regard as well to population, extent of territory, and a free navigation to the Atlantic Ocean, through the Chesapeake Bay, as to the most direct and ready communication with our fellow-citizens in the Western frontier; and whereas it appears to this assembly that a situation combining all the considerations and advantages before recited may be had on the banks of the river Potomac, above tide-water, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessaries and conveniences of life, where, in a location of ten miles square, if the wisdom of Congress shall so direct, the States of Pennsylvania, Maryland, and Virginia may participate in such location:

Be it therefore enacted by the general assembly, That a tract of country, not exceeding ten miles square, or any lesser quantity, to be located within the limits of this State, and in any part thereof as Congress may by law direct, shall be, and the same is hereby forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of Government of the United States.

SEC. 2. *Provided*, That nothing herein contained shall be construed to vest in the United States any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States.

SEC. 3. *And provided also*, That the jurisdiction of the laws of this Commonwealth, over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine until Congress, having accepted the said cession, shall by law provide for the government thereof, under their jurisdiction, in manner provided by the article of the Constitution before recited.

It will be seen by this that in 1789 the general assembly of Virginia, in the solemn act of cession, declared that "the equal and common benefits resulting from the administration of the General Government will be best diffused, and its operations become more prompt and certain, by establishing such a situation for the seat of the said Government as will be most central and convenient to the citizens of the United States at large, having regard as well to population, extent of territory, and a free navigation of the Atlantic Ocean, through the Chesapeake Bay, as to the most direct and ready communication with our fellow-citizens in the western frontier"; and that "such a situation can be had on the

banks of the Potomac." Here then we see set out the very quality and essence of the proper situation of the national capital. It seems that they understood the matter then quite well in Virginia, and that it has been reserved for modern times to disregard these conditions and to hold that a central position is worthless. But there is still another point in this act of cession worthy of note, and that is that the capital was to be located "above tide-water, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessaries and conveniences of life, where, in a location of ten miles square, if the wisdom of Congress shall so direct, the States of Pennsylvania, Maryland, and Virginia may participate in such location." And it was supposed then that somewhere in Northern Virginia, and Maryland, and Southern Pennsylvania was that healthy, fertile, and delightful spot which was ceded, or was to be ceded at some future time, for the capital of the nation. This was not where we find it now.

It is thus apparent that by the act of Congress of July, 1790, the District, of ten miles square, was accepted, and was to be located between the mouth of the Eastern Branch, which is in the southern part of the present City of Washington, and the mouth of the Connogocheague, a tributary of the Potomac some fifty miles above. This law was amended in March, 1791, and the southern limit of the District fixed at any point above the mouth of Hunting Creek, so as to include the Eastern Branch and Alexandria. This law was amended in July, 1846, by an act of retrocession to Virginia of that portion of the District west of the Potomac. The acceptance was made in 1790, was changed in 1791, and was in part relinquished in 1846. The location, the acceptance, the retrocession were all mere ordinary acts of legislation; the latter two were based upon and in amendment of the first. No question was raised as to the power to alter or change the act of 1790 then. The power of Congress was not considered exhausted by its exercise in 1790, by the acceptance of the cession. If so, its location could not have been altered, and almost half could not have been retroceded. Mr. Madison, before the act of 1790 passed, declared in Congress that the location of the capital might be changed by act of Congress; that such an act was but an ordinary act of legislation.

In pursuance of these acts of location, the District was surveyed in 1793, and the seat of Government removed to it in 1800. And Congress exercised exclusive jurisdiction over the whole District until 1846, when that part ceded by Virginia was given back, and since then it has been under the control of the authorities of Virginia, or treated as a part of Virginia, and not of the District, by all parties, State and National. There the act of cession and the acceptance have been set aside and are in force no more. If this can be done on the Virginia side of the Potomac, why not on the Maryland side? Why not with as much propriety retrocede to Maryland as to Virginia?

Turning from the history of the matter and the law in relation thereto, it may be well to look to the state of the country then and since as a part of the subject. When the seat of Government was fixed on the Potomac the population of the United States was about four millions, dwelling in the States bordering or contiguous to those on the Atlantic coast; the region beyond the Alleghany Mountains and the Ohio River was a wilderness, and Louisiana and all the territory west of the Mississippi River belonged to France. Our whole national area was but a little more than six hundred thousand square miles. The center of population, trade, business, wealth, and political power was not far from the District of Columbia, and the location was made expressly with

reference to that fact, as the debates in Congress at that time and the acts of cession show, and was the result of a controversy and compromise among conflicting interests. A point upon the Susquehanna and Germantown, both in Pennsylvania, not many miles distant from the center of the country, as then constituted, were the rival positions to the present location at Washington.

Since then the progress of the people, the influx of immigrants, the growth of business, the construction of the great routes and means of travel by steam, and the annexation and purchase of territory have left the seat of Government upon the verge of the country, and converted it from a central to a border city. Every argument used for its location where it is may now be used against it. It is not central, it is not convenient of access to the majority of the people, it harmonizes no conflict by its present location.

Our population is almost tenfold greater than at that time; our wealth has increased in greater proportion, and our area from six hundred and ten thousand has grown to three millions five hundred and thirty thousand square miles. We find our nation stretched across the continent, with the tide of growth and people moving westward; the valley of the Mississippi and the great lakes, with the largest portion of productive soil and salubrious climate in the midst; capable of sustaining a vast population of farmers, planters, gardeners, mechanics, miners, traders, and men of every occupation known to civilized man; the widest, richest, and grandest valley on the globe, and now well occupied by a vigorous, brave, and patriotic people, whose material interests, if nothing else, must forever make them national in spirit, who must forever, while they maintain a just independence, have a right to own and keep open and free the outlets to either frontier, east, west, north, and south; a people that must of necessity be jealous of dismemberment and disunion, and that cannot see the day when it will be profitable to them to advocate secession or consent to it.

To show what a firm basis there is for the future growth and perpetual wealth and power of the Mississippi Valley, we need but look at its vast breadth in comparison with other sections of the Union of good fertile plow and pasture land, unbroken by hills or unproductive sections, and to the great coal fields of Ohio, Indiana, Kentucky, Illinois, Missouri, and Iowa. The State of Illinois alone is estimated by Professor Rodgers to contain 1,227,000,000,000 tons of coal, while Pennsylvania contains 316,400,000,000 tons, and Great Britain but 190,000,000,000 tons of coal. These great States have a hundred times the capacity for manufacturing that England has, with a soil upon which the staple articles of food and clothing are grown in excess. In 1860 the census reports show that the comparatively new States of Illinois, Missouri, Iowa, Wisconsin, and Minnesota contained 27,582,030 acres of improved land, being about one-sixth of the whole in the United States, which was estimated at 163,261,389 acres. These States, as appears by the agricultural report, produced in 1864 crops in value $403,692,574. The whole value of the crops of the United States was $1,564,543,690. The whole value of live stock January 1, 1865, was $990,876,128. These States produced $273,363,730, in each case more than one-fourth. These States produced a little less than half of the wheat and corn crops of that year, and more than one-third of the cattle and hogs, at that time having about one-seventh part of the population. The surplus we have to export hereafter in agricultural as well as mechanical products must come largely from the valley of the Mississippi. The great chain of iron works must extend on the margin of the Ohio River, from Pittsburg to Cairo. The

Cumberland has its works also; so has the Mississippi, and both are rapidly developing and increasing. The central regions of Ohio and Indiana, with coal of the finest quality, are now extensively engaged in iron manufactures. Missouri has its inestimable mountains of iron; Michigan rivals Missouri in this respect, and Wisconsin, in its north-eastern sections, has developed recently similar deposits. The future of these great central river and lake States of the West baffles and defies calculation.

But in this estimate we have looked at but a small portion of the population and territory which must be accommodated by a removal of the capital to the valley of the Mississippi. The great States of Tennessee, Alabama, Mississippi, Louisiana, Arkansas, and Texas, have in them surpassing elements of wealth and progress. Their railroad and river systems of transportation and travel all bind them to the regions of the Ohio, the Wabash, the Missouri, and the lakes, and constitute them a part of that central portion of the republic as well as of the continent which must become more powerful as time progresses. And the enormous surplus in cotton, cattle, corn, tobacco, sugar, horses and mules of this great southwestern region will rival that of its immediate northern neighbor in other staples of commerce. The report of the Commissioner of the Census, accompanying, shows the population of the Central, Gulf, and Western States to exceed by millions that of the Eastern and Atlantic States. The men who control this vast wealth, power, and population, present and prospective, will never be satisfied with a capital upon the borders, upon the seaboard, at one side of the real and permanent heart of the nation, and they will move it to the place where it belongs. This, in our judgment, is as inevitable as the growth of the country. And it would be as wise to struggle against it as to strive to keep back the tides of population and production which are sweeping with irresistible power into that region. It would be as reasonable as to mourn that there will be within half a century from this time, at the present rate of progress, at least a hundred millions of prosperous citizens in this country; or that the power of this people, should it fortunately remain united, will be the solitary great, overshadowing, colossal, national force of earth. The removal of the capital, in our opinion, is inseparable from the future greatness of our people, and is no more to be deprecated than its vast increase in numbers, wealth, power, and intelligence.

Is it, then, the part of wisdom to go on with the erection of expensive and durable structures in the present place? Would it not be better to wait until the true sense of the nation can be taken upon the question? Would it not be better to use those erected temporarily until the development of the country points out where the capital must go? On the contrary, would it not seem to be in the highest degree wasteful and extravagant to appropriate large sums for buildings at a point which must be abandoned at no distant day?

These facts clearly point to a change of the location of the capital for the convenience of the people, for its safety, and for the permanent existence of the Government itself.

The idea of a capital is, in a great measure, inconsistent with its present location. It should be a place not only for the enacting and administration of the laws, a safe depository of the public records and archives, a residence of the power of the people, but a place easy of access, in as favorable a climate as possible, in as healthy a location as possible, in as convenient a place as possible; easy of defense against foreign enemies, and surrounded by a faithful, courageous, intelligent,

and loyal people whose sympathies and interests are national; central in location, commanding in position. It is not in such a place now. Located where it is the people must forever be more or less sectional; no people can rise entirely above their surroundings. It is difficult of access, distant from the majority, with a variable climate, without great advantages as to health, liable to attack by a foreign foe, indefensible except by a large force at great expense, recently surrounded by the hosts of armed treason, in the midst of a barren region incapable of sustaining a powerful and vigorous people, the capital of the nation sits solitary, helpless, idle, in danger, friendless, and a beggar on the banks of the Potomac.

And while this is said in all candor, it cannot be denied that the mere situation of Washington on the Potomac, with the surrounding hills, is a fine one, and capable of very great and advantageous improvement; and that the Capitol, and a few of the public buildings, are splendid specimens of architecture, which no true American can behold without pride and the highest gratification.

Is there a better place for the capital? This is a subject which the minority deem worthy of inquiry by the Representatives of a great people. It is believed there are many. The banks of the Ohio, the Mississippi, and the Missouri, the great regions covered by farm, forest, or prairie in that safe, central, healthy, and productive valley, furnish very many locations superior to the present one.

And we believe that now is the time to make the inquiry, before further outlays of public money at Washington, for buildings which will ultimately be needed for the public business. There has been already expended upon the buildings and grounds used by the officers of the Government in the transactions of its business as such about the sum of $25,000,000. The other expenditures have been for the city and District, and for such general purposes as are not peculiarly a part of the capital of the nation, such as the Navy Yard, Arsenal, Insane Hospital, Soldiers' Home, Smithsonian Institute, Observatory, bridges, streets, canals, &c. A statement of all these expenditures is appended hereto and made a part of this report. The Capitol has cost, it will be seen, about the sum of $12,000,000; the Treasury about $6,000,000; the Department of Interior building about $4,000,000; the General Post Office about $2,000,000; the Agricultural Department building about $200,000; the President's House about $300,000. These are the only permanent buildings now in use. The exact cost can be seen in the reports appended from the Treasury Department. The buildings occupied by the War and Navy Departments are old and temporary; the State Department is in a rented building, as also the offices of the Coast Survey, the Department of Education, the Census Bureau, as well as several branches of other Departments. Besides the sums expended in the erection of the permanent buildings, the entire balance has been poured out upon the streets, avenues, bridges, squares, and other places in the District. The really permanent structures are the Capitol, the Treasury building, the General Post Office, the Patent Office, and the Agricultural building; but five in all. And these are incomplete or insufficient. The Capitol, while complete in the wings, lacks a central extension to the front on the entire length of that portion, which will cost, by the estimate of the architect, at least $2,000,000. There is not sufficient room now for the libraries, courts, and committees. The Treasury building does not accommodate all its clerks, the largest bureau being in Winder's block, a distant, uncomfortable, and inconvenient building, bought from a private party. The Treasury building itself is incomplete; by the plan it should extend into Fifteenth street, the long colonnade on the eastern

side is to be torn away, and a granite front, corresponding to the western one, is to be erected. The street thus occupied must be removed eastward. Large private buildings will have to be removed also at great expense to the Government. The General Post Office is now crowded and must soon be enlarged, and the Department of the Interior is occupying a large range of buildings not fire-proof, with its clerks, at high rent. But, in addition to these demands, we find that a measure is being pressed upon Congress and a partial appropriation made for the erection for a State, War, and Navy Department buildings to correspond with that of the Treasury, which at present prices must cost about eight millions of dollars. The business of the people with the Government is increasing rapidly, and every one of the great buildings, were they even complete, would be insufficient in a few years. We can point to but a few structures worthy of the name, as many more will soon be needed.

And the existence of these buildings, with the outlay for their construction, are urged as reasons for the retention of the capital here by many who do not know what vast and costly structures must yet be made if the capital remains in Washington.

The accompanying statements of the heads of Departments, and of the Architects of the Capitol and Treasury, show the number of buildings now leased for the use of the Government in Washington City and the amount of rent paid for them. They also show the early demand for large, permanent, and very expensive structures. It will be seen that the War Department pays rent amounting to $55,180 a year; the Department of State, $18,750; the Navy Department, $3,020; the Depart- of the Interior pays $21,080; the Treasury Department, $4,500; and the Coast Survey, $13,000 a year, making for rents alone $115,530 annually. Mr. Clark, Architect of the Capitol, estimates the addition to the Capitol to cost $2,000,000. The additional grounds will cost at least one million more. Mr. Mullett, Architect of the Treasury, estimates the War and Navy Departments to cost $6,000,000; that it will cost $1,000,000 to extend the Treasury to complete the plan into Fifteenth street; $1,000,000 to put an addition needed on the Post Office; and $2,000,000 for a Department of Justice and Supreme Court-house. When we compare cost with estimates we can well add 20 per cent. This will run up the amount to at least $15,000,000 to be expended within a few years in new structures, or additions to old ones. Before these extensive and costly structures are erected, would it not be well to pause and consider whether there may not be a better location for all that may be erected? Whether it would not be real economy to place them in such a position as that a change might not be effected hereafter?

A comparison of our buildings with those of St. Petersburg, Berlin, Paris, and London shows what we need and must have, and what we will have within fifty years to come. The vast room required for the arrangement and deposit of the records and papers of the various offices, as well as the amount of room needed for the transaction of business, will call from time to time for large additional structures. At this time, as an instance, there is a demand by the Secretary of the Treasury, indorsed by the Committee on Appropriations, for a large and expensive building which, when completed, with its machinery, will cost half a million dollars, for the printing of currency and bonds. There is also a demand by the Public Printer for large additions to the building occupied by him for printing and binding, costing many thousands of dollars. The President's House is deemed by many to be insufficient, and

in a few years at most will be dispensed with, when another structure upon other grounds will need to be erected at a large expense. There is a project of enlarging the Capitol grounds by the purchase of two squares with the buildings, involving the outlay of at least $1,000,000, and this measure has thrice passed the Senate, and has been defeated only for a time, to be pressed with more and more vigor till it is accomplished. There is another project to create a grand park extending from the Capitol grounds to the President's House, involving very heavy expenditures, whether a half million or a million dollars we cannot say.

But outside of all these expenses are the street, avenue, and public square improvements; the making of roads and bridges; the continuation and repair of water-works; the improvement of the canal; the payment for the city police; the salaries of District officers; the support of the charitable institutions of the District; the care of the insane, the deaf and dumb, the poor, the sick and infirm in hospitals and asylums, making in all an annual outlay of hundreds of thousands of dollars. The Metropolitan Police alone costs $207,000 this year, and required $211,000 last year. The Deaf and Dumb Asylum costs about $40,000 a year; many of the inmates of this asylum are from points out of the District, but at least a third is chargeable to the District. The Lying-in Hospital required last year $18,000, and the Association for Destitute Colored Women, $10,000. The water-works last year got appropriations of $120,000; this year, $110,000. The canal got an appropriation of $50,000. The streets, alleys, squares, and bridges got last year $80,000; this year about $130,000. Here is an aggregate of half a million dollars which should be borne by the citizens of the District, but which is drained from the Treasury. Every year witnesses a renewal of these demands and appropriations, or similar ones to them. We deem it proper to call public attention to these large expenditures, which are, in a great measure, unnecessary for the public service in the administration of the Government, and which, in our judgment, should not be incurred. They seem to be inseparably connected with the Capital and the District as now organized, and no doubt will, as time passes, be gradually increased.

We believe that by a change of the location of the Capital the Government could rid itself of the great burdens imposed by reason of the present city and District system. Were the public buildings located in one place, convenient to each other in grounds properly arranged, there need be none of the outlays now required for streets, alleys, bridges, roads, squares, reservations, canals, hospitals, asylums, poor-houses, jails, police, and water-works large enough for a large city. This whole burden may be taken off at once. We believe that the Government can procure a tract of land sufficiently large for its use as a capital and district, and from the proceeds of lots sold, in connection with the express understanding that all civil and municipal expenses whatever are to be borne by the purchasers, derive a sum sufficient to erect a large part of the buildings as commodious and handsome as those now in use. And in view of this proposition and the prospective structures required here, we believe that no further appropriations for permanent public structures should be made in this District.

In coming to these conclusions we have not been unmindful of the condition of public opinion in reference to this question. When the legislatures and conventions of such States as Indiana, Illinois, Missouri, and Iowa, speak with great unanimity on the subject, and a very large portion of the citizens of the country are dissatisfied with the present location, it may be regarded as more appropriate to ask early action up-

on it. We have not been able to learn that this movement has its origin in any feeling of hostility to the city of Washington, or the District of Columbia, or any narrow and selfish desire of gain, or sectional and local prejudice, but we are fully convinced that it rests upon a great and patriotic purpose to rescue the seat of Government from the possibility of such influences, from the dangers of foreign invasion, from the bane of secession, from any taint of the spirit of treason, and to place it where no hostile power could ever threaten its safety; where the entire popular sentiment is national; where the combined wealth, power, intelligence, taste, public spirit, and patriotic pride of the surrounding people shall give it the grand position our national capital deserves.

The capital of this nation, if favorably located, is destined to be a great city. It must be the center of attraction of the active, earnest, progressive, thinking, and working men of the nation; it must be the focus of the great ideas and projects which are to stimulate and advance the successive generations that dwell on this continent. It must be the residence of thousands and tens of thousands of the great, and wise, and good, who will, as time progresses, make illustrious our history. It must ultimately be the great city of the civilized world. Our population will rise as easily to a hundred millions, and from that to two hundred millions, as it has from three to thirty-eight millions. When a hundred millions dwell under the protection of our power who can now measure the grandeur of their capital city? Who can now, with good reason, say that the structures we have already erected are a tithe of what will then be needed, and that for the comparatively small expenditure that has been made, the seat of Government shall be retained in an unfavorable location?

Profoundly impressed with the importance of this subject, we propose the following resolutions as expressive of the true policy to be pursued in relation to this matter:

Resolved, That it is the duty of Congress to make no further appropriations for the erection of permanent and costly structures for the use of the Government in the District of Columbia.

Resolved, That a commission of seven persons be elected by the Senate and House of Representatives of the United States, to select a place for the future seat of Government of the United States, subject to confirmation by Congress.

JOHN COBURN.
PHILETUS SAWYER.

EXHIBIT No. 1.

Letter from the Secretary of the Treasury in answer to a resolution of the House of February 11, transmitting a statement of the expenditures for public purposes in the District of Columbia from the establishment of the seat of Government to the 31st of December, 1869.

TREASURY DEPARTMENT,
February 19, 1870.

SIR: In compliance with the resolution of the House of Representatives dated the 11th instant, I have the honor to transmit herewith two statements, prepared by the Register of the Treasury, together with an explanatory letter from said officer, which contain all expenditures from the national Treasury for public and private purposes in the District of Columbia, (excluding the salaries of public officers,) from the time the seat of Government was located at Washington until the 31st day of December, 1869.

I am, very respectfully,

GEO. S. BOUTWELL,
Secretary of the Treasury.

Hon. J. G. BLAINE,
Speaker House of Representatives, Washington.

TREASURY DEPARTMENT, REGISTER'S OFFICE,
February, 1870.

SIR: I have the honor to transmit herewith two statements, embracing all expenditures from the national Treasury, for public and private purposes, in the District of Columbia, (excluding the salaries of public officers,) from the time the seat of Government was located at Washington to the 1st of January, 1870, furnished in compliance with a resolution of the House of Representatives of the 11th instant, referred to this office on the 14th instant.

No. 1 is a copy of a statement prepared in this office under date of September 11, 1858.

No. 2 is a continuation of that statement to the 1st of January, 1870.

The resolution calls for a statement to the close of the fiscal year ending June 30, 1869. A request for the same information to the 1st of January, 1870, having been complied with recently, is the reason for now furnishing the expenditures to a later period than the time mentioned in the resolution.

As requested, the resolution is herewith returned.

Very respectfully, your obedient servant,

JOHN ALLISON, *Register*.

Hon. GEORGE S. BOUTWELL,
Secretary of the Treasury.

No. 1.—*Statement of all the expenditures from the national Treasury for public and private purposes in the District of Columbia, (excluding the salaries of public officers,) from the time the seat of Government was located at Washington to the close of the fiscal year ending June* 30, 1858.

Public buildings in Washington	$1,515,966 32
Erecting the Capitol, including alterations and repairs	1,314,731 52
Repairs of the Capitol, &c	8,000 00
Alteration and repairs of the Capitol	93,241 26
Repairs at the Capitol water-closets, public stables, &c	11,000 00
Inclosing and improving Capitol square	221,220 86
Statues and busts for the Capitol	105,833 95
Furniture for the Capitol	80,043 20
Foundation for colossal statue of Washington in rotunda of the Capitol	1,990 74
Erecting statue of Washington in rotunda of the Capitol	5,000 00
Lighting with gas the Capitol and Capitol grounds	11,050 59
Extra work done in making necessary fixtures for lighting the Capitol with gas	2,877 18
Purchase and erection of lamps and lamp-posts of iron, and for laying gas pipes, &c., in the Capitol grounds	4,951 71
Removing mast and lantern above the dome of the Capitol	323 00
Paying Washington Gas Company for lighting the Capitol and grounds, including fixtures	2,000 00
Lighting the Capitol and President's House, the public grounds around them, &c	121,305 00
Repairs and removal of gas pipes through the Capitol	3,500 00
Painting the Capitol	18,064 90
Painting and repairs inside of the Capitol, &c	5,000 00
Painting and repairs inside of the Capitol, new furnace under the Senate chamber, &c	500 00
Paintings for the rotunda of the Capitol	70,542 00
Four historical paintings for rotunda of the Capitol	10,000 00
Supplying the President's House, executive buildings, and Capitol, with water	82,605 30
Repairs of water-pipes at the Capitol	1,000 00
Improving public grounds north, south, and west of the Capitol	2,500 00
Purchase of two thousand feet of six-inch iron water-pipe to conduct water to the Capitol, &c	2,500 00
Extension of the Capitol according to such plan as may be approved by the President of the United States	690,000 00
Extension of the United States Capitol	3,635,000 00
Expenses incurred in the extinguishment of the fire in the library room at the Capitol	5,000 00
Repairs of the Congressional Library room, destroyed by fire	96,500 00
For fitting up document room to receive temporarily a portion of the books of the Congressional Library	1,138 43
Taking up and repairing the steps of the eastern portico of the Capitol, &c	1,500 00

Permanent repairs of the roof of the Capitol with copper	$2,000 00
Removing fences, grading streets, &c., preparatory to the extension of the Capitol square	3,000 00
Removing the dome of the Capitol	105,000 00
Dome of the Capitol of the United States	130,000 00
Furnishing and ornamenting the Capitol with works of art, &c	1,750 00
For furnishing and putting up new furnaces and repairing old ones, &c., for the House of Representatives	4,500 00
Building to accommodate Congress, including rent	19,355 00
Completing room under post office of the Senate	4,451 31
For flagging footway in the Congressional Burying Ground from the entrance of the same to the Government vault	2,200 00
To enable the Commissioner of Public Buildings to provide additional furnaces for the Library of Congress	2,500 00
President's House, additions, alterations, and repairs	158,675 84
Alteration and repairs of the President's House, &c	73,931 25
Accommodations of the President's household furniture, &c	923,805 27
Furnishing the President's House, &c	43,897 34
Grading, draining, &c., the grounds south of the President's House	*50,770 00
Grading and improving the President's square	*59,584 00
Filling the low grounds south of the President's House	474 54
For extending sewers from the executive departments and the President's House to the canal, &c	32,000 00
Cast-iron fence from the corner of the Department of State to the President's gate	3,931 27
Raising chimneys of the southeast executive building, and repairing the steps of the western portico, &c	3,000 00
Painting exterior of the President's House below the cornice	1,050 00
Heating and ventilating the Executive Mansion, &c	32,525 29
Repairing or removing water fixtures at the President's House	2,000 00
Footway on the north front of the President's House, &c	4,809 28
Erection of stables and conservatory at the President's House	20,000 00
Extending the gas-pipes and providing lamp-posts, lamps, and burners in front of the Executive Mansion	5,339 19
For expenses incurred in bringing gas-pipes, &c., into and around the northeast executive building	398 59
Two additional executive offices	191,756 71
Smithsonian Institution	648,684 96
Expenses of the Smithsonian Institution	278,191 26
Expenses of the Smithsonian Institution, per act August 10, 1848	257,584 07
Smithsonian Institution, founded at Washington for the increase and diffusion of knowledge among men	70,265 89
Jail in the city of Washington	54,838 66
Jail in the county of Alexandria, District of Columbia	11,699 16
To defray expenses incurred in preparing plans and estimate costs of a new jail for the District of Columbia, &c	500 00
Building penitentiary, District of Columbia	77,777 97
Support and maintenance of the penitentiary in the District of Columbia	316,679 87
Insane hospital in the District of Columbia	10,000 00
To enable the Secretary of the Interior, under the direction of the President of the United States, to purchase a site in neighborhood of Washington for erecting an asylum for insane	239,321 00
Erection of a barn and carpenter's shop at the Insane Asylum, District of Columbia	7,200 00
For inclosing the grounds of the Insane Asylum, District of Columbia	3,000 00
To aid the directors of the Washington Infirmary to enlarge their accommodations for the benefit of sick transient paupers	20,000 00
Support of insane persons in the District of Columbia, including liquidation and settlement of debts due to Maryland for support of insane paupers	30,296 24
Support, clothing, &c., of insane paupers, District of Columbia	13,828 36
Payment on account of principal and interest of loan made by State of Maryland to the city of Washington	290,874 84
Support and maintenance of insane paupers in the District of Columbia and Baltimore	7,169 75
Support of insane paupers in the District of Columbia, (pauper lunatics of Baltimore)	40,029 89
Support, attention, and medical treatment of twelve transient paupers, medical or surgical, in the Washington Infirmary	14,250 00

Support of eighteen transient paupers, &c., in the District of Columbia.	$9,750 00
Maintenance and tuition of deaf, dumb, or blind pupils for the District of Columbia in the Columbia Institute	1,600 75
Support, clothing, and medical treatment of the insane of the District of Columbia	20,500 00
Support of the Military Asylum, for the relief and support of disabled soldiers of the United States	118,791 19
Support, clothing, and medical treatment of the insane of the District of Columbia and of the Army and Navy	20,500 00
Erection of a lodge for colored insane, fences, repairs of farm-house, ten cows for use of asylum, &c	12,020 00
Purchase of the rights of the Washington Bridge Company, and for the erection of a public bridge on the site thereof	47,000 00
Erecting a bridge across the Potomac River at Washington	134,683 25
Loss incurred in making preparations to build a bridge across the Potomac River at Washington	13,854 70
Repairs of the Potomac Bridge, District of Columbia	71,104 83
To reimburse the expenditure made by the Commissioner of Public Buildings for the repairs of the Potomac Bridge	4,500 00
For a bridge across the Potomac River at Little Falls	122,587 03
Purchase of one or both of the bridges over the Eastern Branch	30,000 00
Repairs of the bridges on the Eastern Branch of the Potomac River, &c.	21,999 00
Improving the navigation of the Potomac River between Alexandria and Georgetown, and for other purposes	150,000 00
Repairing the roof of the court-house in Alexandria	18,550 00
Loan made to the City of Washington	100,000 00
For the benefit of the city of Washington	70,000 00
Relief of the several corporated cities of the District of Columbia	1,155,058 29
Reimbursement of the debt contracted by the cities of the District of Columbia, assumed by the United States	780,000 00
Improvements in the city of Washington, under the twelfth section of act of Congress approved May 17, 1848	23,268 62
To complete the grades in the city of Washington, under direction of the President of the United States	13,250 09
To enable the Secretary of the Interior to purchase a suitable number of iron settees, to be placed in the public grounds, &c	1,840 00
To enable the Secretary of the Interior to purchase five hundred burial lots in the Congressional Burying Ground	5,000 00
Expenditure on account of the public burying grounds	9,359 89
To enable the Secretary of the Interior to pay for 225 feet 5 inches of granite coping used in the improvement of the triangular square, &c.	515 47
For erecting suitable buildings in Washington City for the preservation of the ordnance and arms of the volunteers and militia of the District of Columbia	27,374 96
To reimburse the corporation of Washington the amount advanced to complete culvert, &c	2,309 90
To reimburse the corporation of Washington the cost of erecting half of the City Hall building	30,000 00
Apartments in the City Hall for the circuit court of the United States.	11,115 00
Alterations and improvements in the court-room in the City Hall at Washington, District of Columbia	2,500 00
Inclosing with a substantial wooden fence, &c., the low grounds on the canal between Third and Sixth streets	2,500 00
Purchase of the rights of the Washington Canal Company	150,000 00
Completing the Alexandria Canal, District of Columbia	300,000 00
Aqueduct across the Potomac River, at or near Georgetown, District of Columbia	100,000 00
Continuation of the Washington aqueduct	1,285,036 99
Completing, cleaning, and repairing that portion of the Washington City Canal which passes through and along the public grounds	40,000 00
Navy-yard at Washington City, District of Columbia	1,655,977 73
Timber sheds at Washington	9,360 14
Removing and rebuilding monument in navy yard, Washington	2,300 00
Payment for property destroyed by burning the navy yard at Washington in 1814	225 00
Repairs of the Potomac, Navy Yard, and Upper bridges; and to refund to the Commissioner of Public Buildings $3,000 advanced to him by the city of Washington, District of Columbia	26,000 00
Hospital at Washington, District of Columbia	417 00
Magazine at Washington, District of Columbia	12,513 53

Bringing water into the city of Washington	$180,000 00
Repair of water-pipes	200 00
Purchase and repairs of tools for laborers	1,755 45
To enable the President of the United States to employ Clark Mills to erect at the city of Washington a colossal equestrian statue of George Washington, &c	25,000 00
To enable the President of the United States to compensate Clark Mills for the execution of the equestrian statue of Andrew Jackson	20,000 00
For erecting a pedestal in Lafayette Square for the equestrian statue of Andrew Jackson, and inclosing the same	8,500 00
Post Office and Patent Office, including purchase of old building lots, &c.	82,500 80
Erecting a fire-proof building for the General Post Office	477,052 71
Purchase of the remainder of the square on which the General Post Office buildings are situated	22,150 00
Purchase of ground north of the General Post Office building	9,877 93
Repairs of the General Post Office building, office furniture, painting, &c	5,083 00
Painting the interior of the General Post Office building, including passages, &c	5,000 00
Continuation of the General Post Office building	800,000 00
Erecting a fire-proof building for the Treasury Department	667,974 00
Furnishing rooms in the Treasury Department	16,600 00
Painting walls of the Treasury Department and Patent Office	5,000 00
Lighting and ventilating the upper story of the Treasury building	15,000 00
Continuation of the Treasury building	994,403 47
Erecting a fire-proof building for the Patent Office	417,550 00
For casual repairs of the Patent Office building	5,200 84
Contingent expenses of the east wing of the Patent Office, &c	100 00
For completing the east wing of the Patent Office building	397,892 40
Erection of the east wing of the Patent Office building and completing the drain of said building, &c	649,107 98
Erection of the west wing of the Patent Office building and completing the drains of said building and Post Office building	49,000 00
Altering the streets and repairing in front of the east wing of the Patent Office, &c	14,250 00
Furnishing the front of the basement of the center building of the Patent Office, &c	3,200 00
Flooring the basement rooms in the old portion of the Patent Office building, &c	2,000 00
Iron railing and flagging in front of the old portion of the Patent Office building, &c	5,730 00
Repairing old portion of the Patent Office building, constructing water-closets therein, &c	3,000 00
Repairing old portion of the Patent Office building	1,000 00
Repairing heating apparatus, raising, repairing passages, painting, reglazing, and extending seed-room and green-house	6,000 00
Erection of the north front of the Patent Office building	210,000 00
Furnishing rooms of the new wing of the Patent Office building and providing the saloon with cases for models	500 00
For the construction and erection of suitable cases to receive the collections of the United States Exploring Expedition and others in geology, &c	15,000 00
For the expense of the transfer of collections of the United States Exploring Expedition, and the permanent arrangement of the cases	2,000 00
Repairing the saloon of the west wing of the Patent Office for the reception of models, &c	20,000 00
Monument over the tomb of Elbridge Gerry, late Vice-President of the United States	1,000 00
Repairs or additions of offices, rooms, vaults, and sales, purchase of additional furniture, fixtures, &c	5,000 00
Fire-engines, hose, and engine-houses for the public buildings	34,478 33
Rebuilding engine-house of the Columbia Fire Company on Capitol Hill.	2,500 00
Purchase of fire-engines	600 00
For removing the old engine-house of the Franklin Company from the triangular space on Pennsylvania avenue	11,000 00
Improvement of public squares, other than the Capitol and President's and the streets adjoining	34,561 97
Grading done by order of Ignatius Mudd, late Commissioner of Public Buildings, &c	484 89
Miscellaneous expenditures relating to public buildings, grounds, &c..	179,574 99

Improving Pennsylvania avenue	$209,493 99
Paving and repairing Pennsylvania avenue	45,915 29
Repairs of Pennsylvania avenue	7,000 00
Lighting Pennsylvania avenue from Capitol Square to the Treasury Department, &c	47,516 25
Sprinkling Pennsylvania avenue during the session of Congress	1,061 87
For continuing of improvements of Pennsylvania avenue around the Capitol grounds, &c	17,500 00
For repairing Pennsylvania avenue at the intersection of Seventh street	5,000 00
Paving remainder of center space of Pennsylvania avenue	5,255 86
Grading and paving with round stones the carriage-way of Pennsylvania avenue from Seventeenth street to Rock Creek, &c	43,700 00
Continuing sewer under Pennsylvania avenue east line of Fourteenth street	3,000 00
Enlarging the culverts and openings into the same across Pennsylvania avenue, &c	3,928 36
Placing sewer openings along Pennsylvania avenue	8,000 00
For defraying the expenses incurred in the improvement, &c., of the triangular space north side of Pennsylvania avenue, between Thirteenth and Fourteenth streets	5,192 00
Inclosing with iron fence and otherwise improving the triangular space north side of Pennsylvania avenue, opposite the market-house, between Seventh and Eighth streets	4,500 00
Inclosing with iron fence and otherwise improving the triangular space north side of Pennsylvania avenue	3,360 00
Erecting lamp-posts and lamps on both sides of Pennsylvania avenue	4,900 00
Furnishing lamps and lamp-posts from Sixteenth to Seventeenth streets on Pennsylvania avenue	500 00
Erecting cast-iron lamp-posts and lighting the same with gas from the western termination of Pennslyvania avenue	4,000 00
Grading University Square	22,543 77
For the purchase of a building corner of F and Seventeenth streets	200,000 00
Inclosing circle at intersection of Pennsylvania avenue with New Hampshire avenue	4,500 00
Inclosing triangular space upon which the western market-house recently stood with iron fence	5,000 00
For improving that part of reservation 17 lying between New Jersey avenue and Second street	2,500 00
For grading, graveling, &c., New Jersey avenue, north of the Capitol	22,000 00
For improving New Jersey avenue, south of the Capitol	4,000 00
Grading, graveling, repairing sidewalks, building culverts, &c., on New Jersey avenue, from the Capitol to the public reservation No. 5, &c	2,000 00
Completing the grading and graveling of New Jersey avenue	7,000 00
Grading and graveling Indiana avenue from Third street to Capitol Hill, and constructing culvert	11,284 77
Grading Indiana avenue, &c	11,833 92
Grading and graveling Indiana avenue, from Third street to Capitol Hill	381 31
Grading, graveling, and completing the culvert across Tiber Creek, on Indiana avenue	6,000 00
Grading, graveling, &c., Four-and-a-half street, &c	4,750 00
Grading Four-and-a-half street south	1,199 20
For completing the graveling on Four-and-a-half street, from Maryland avenue to the arsenal grounds	80
For taking up and relaying, &c., as much as has been washed away at the sewer along Fifteenth street, &c	2,999 98
Paving remainder of center space of Fifteenth street	12,700 00
Paving Fifteenth street west	172 96
Sewer under Fifteenth street	2,160 72
Grading and improving Maryland avenue, from Seventh street to the Potomac bridge	12,420 72
Grading and paving with round stones Seventeenth street, from Pennsylvania avenue to the north side of New York avenue, &c	5,500 00
Grading and paving with round stones Twelfth and Fourteenth streets, from canal to south B street	9,000 00
Construction of a sewer in Judiciary Square	6,000 00
For filling up ravine in Judiciary Square	3,000 00
Continuing improvements of Judiciary Square, repairing fences, &c	6,000 00
Improving the grounds in Lafayette Square, and fencing the same	5,000 00
For finishing brick pavement on the south front of Lafayette Square	1,000 00

Inclosing Lafayette Square with iron fence, including four gates		$20,303 99
Defraying the expenses incurred in the improvement of Lafayette Square		5,266 00
For public reservation No. 2, Lafayette Square		12,000 00
Purchase of one dozen settees for Lafayette Square		175 00
For furnishing lamp-posts and lamps on the north, east, and west sides of Lafayette Square, &c		1,350 00
Filling up, grading, and otherwise improving Franklin Square		5,906 99
Grading, inclosing, &c., public Mall, from Seventh street to the Potomac River		8,628 00
Completing the grading, &c., of the Mall from Sixth street to the Potomac River		4,954 29
Completing the grading and planting with trees, and inclosing the public Mall from Third street to the Potomac River		13,000 00
Completing the grading, planting with trees, and inclosing with a wooden fence, the Mall from Sixth street westward		763 50
For purchase of trees and hire of laborers in the improvement of reservation No. 2 on public Mall		5,276 52
Continuing the grading and planting with trees the unimproved portions of the Mall		27,500 00
Planting and finishing the roads and walks through that portion of the public Mall surrounding the Smithsonian Institution		7,500 00
Laying of gas pipes from Fifteenth street to President's House, and branch pipe through the house, &c		5,000 00
Laying gas pipes from main pipe at Capitol to Fifteenth street on both sides of Pennsylvania avenue, &c		10,000 00
Laying gas pipe between Capitol and Fifteenth street, &c		3,000 00
Inclosing and preparing public grounds for nursery		750 00
For extending the propagating department of the Botanic Garden, and introducing water into the same, &c		2,600 00
Expenses of taking care of and preserving botanical and horticultural specimens brought home by exploring expedition		3,400 00
Removal of green-house and botanical collection thereat, to some suitable site, &c., &c		5,000 00
Filling up and draining grounds in the vicinity of the national green-house		18,650 00
Removing fences, grading streets, &c		12,000 00
Purchase of tree-boxes, leather, wire, and twine for the public buildings		250 00
Purchase of trees for the Mall and other public grounds		1,000 00
Purchase of tree-boxes to replace, when necessary, such as have been planted by the United States, &c		22,680 73
Hire of carts for the public buildings and grounds		7,000 00
Manure for the public grounds		6,600 00
		24,721,301 67
From which deduct excess of repayments beyond expenditures and repayments where there are no expenditures, &c., on account of completing the grading, planting with trees, and inclosing with wooden fence the Mall, from Sixth street westward to Potomac River	$717 79	
Grading and improving Maryland avenue from Seventeenth street to the Potomac bridge	3,420 72	
Furnishing the President's House	71 48	
Cast-iron fence, from corner of Department of State to the President's gate	412 58	
Inclosing circle at the termination of Pennsylvania avenue with New Hampshire avenue and R street, &c	580 82	
Completing the east wing of the Patent Office building, &c., &c	546 12	
		5,749 51
Total		24,715,552 16

F. BIGGER, *Register.*

TREASURY DEPARTMENT,
Register's Office, September 11, 1858.

No. 2.—Statement of all the expenditures from the national Treasury for public and private purposes in the District of Columbia, (excluding the salaries of public officers,) from June 30, 1858, to January 1, 1870.

Annual repairs of the Capitol, &c	$105,129 00
To contract with Hiram Powers, &c., to ornament the Capitol	20,018 00
Painting, &c., the Capitol; new furnaces under the Senate chamber	1,000 00
Coal, and firemen to warm the Library of Congress	9,282 00
To fit up, with shelves, the two rooms at the south end of library, &c	270 00
Stone flooring for Library of Congress	5,200 00
Repairs of water-pipes at the Capitol	6,298 99
Lighting the Capitol, President's House, &c	692,600 00
Dome of the Capitol of the United States	763,000 00
Extension of the Capitol	3,408,613 74
Ornamenting the Capitol with works of art	11,250 00
Expenses, &c., for warming the Library of Congress	3,000 00
Converting the old Senate chamber into a court-room	25,000 00
Fitting up rooms in the center building, &c., for use of Court of Claims	3,000 00
Keeping three furnaces under the old hall House of Representatives	1,000 00
Repairs of water-closets of the Capitol	10,100 00
Repairs of furnaces under the Senate chamber, &c	998 70
To have the old furnace under the Library of Congress removed, &c	325 00
Painting the outside of the old portion of the Capitol	1,000 00
Removing the Army bakery from the basement floor of the Capitol	8,000 00
Erecting two new furnaces under the rotunda of the Capitol	5,500 00
Repairs of all the furnaces under the Capitol	2,000 00
Continuation of the repairs of Delaware avenue, north of Capitol	1,000 00
Removing back the fence, &c., the Botanic Garden	1,200 00
New roof of the Congressional Library	3,500 00
Reconstruction of five of the burnt-out furnaces, &c	4,858 38
Keeping the spring and water-pipes, &c., in repair, &c	1,000 00
To grade, &c., so as to relay the water-pipes leading from the Government spring, &c	8,140 00
Fuel for center building of the Capitol	7,500 00
Enlargement of the Library of Congress, so as to include in two wings, &c	193,153 28
For picture by W. H. Powell, illustrative of some naval incident	5,000 00
Replacing one of the iron panels in the ceiling of Library of Congress	324 77
Cleaning and painting the crypt and passages under the rotunda	2,000 00
Enlarging bench in the Supreme Court room	1,214 00
Completing the tiling of the floor of the old hall House of Representatives	3,875 00
Fitting up rooms in the basement under the court-room of the Supreme Court	6,500 00
Reconstructing the lower water-closets of the Supreme Court room	1,500 00
Painting the iron railing around the Capitol grounds	1,500 00
Heating with steam the Supreme Court room, law library, &c	14,997 20
Casing with stone, and erecting a wall in front of No. basement, &c.	4,300 00
To cause to be painted, &c., the escutcheons of the States of West Virginia and Nevada	130 00
Grading, &c., and improving the public grounds around the Capitol	47,000 00
Lighting the rotunda of the Capitol with gas, &c	3,000 00
Repairing the roof of the old portion of the Capitol	5,450 00
Illuminating the Capitol and Government portion of the City Hall	250 00
Laying a new pipe from K street main to the Capitol, &c	13,000 00
Improvement and repair of seats and fountains in Capitol Grounds	1,000 00
Alterations and repairs of the President's House	95,250 00
Refurnishing the President's House	46,053 02
Fuel for the President's House	40,000 00
Erection of stables and conservatory for the President's House	3,905 00
Plants for the conservatory for the President's House	1,000 00
To complete the improvements on the square south of President's House	2,000 00
Series of protraits of the Presidents of the United States for President's House	3,200 00
Purchase of books for the library of the President's House	1,492 82
Taking care of the grounds south of the President's House	28,500 00
Introducing Potomac water into the President's House	4,420 00
Painting iron fence around Lafayette Square in front of the President's House	1,000 00
Rebuilding the President's stable	14,016 19
Repairs of the basement of the President's House	13,000 00

Repairs, refitting, &c., President's summer residence	$3,000 00
Making the road from the President's stable to the House	1,500 00
Underdraining the President's garden and Capitol grounds	1,500 00
Painting the President's House, inside and out	8,000 00
Removing the water-pipes, &c., to the President's House	5,500 00
Carrying the Potomac water into the office portion of the President's House	3,000 00
Deficiency, &c., for fuel for President's House and Capitol	14,000 00
Deficiency for repairing conservatory for President's House	28,000 00
Refurnishing President's House, (act December 19, 1865)	160,000 00
Renewing the heating apparatus at the President's House	16,000 00
Hawley's improved patented lightning conductor for President's House	500 00
Expenses of a survey of a park and site for a presidential mansion	2,500 00
Purchase of a portrait of the late President Lincoln for the Executive Mansion	3,000 00
Completing the iron fencing of the President's grounds, &c	27,000 00
Purchase of flower-pots, &c., for use in the green-house, &c	2,100 00
Expenses of the Smithsonian Institute	70,921 68
Seats of wood in the Smithsonian grounds	100 00
Repairs and rebuilding fence around the Smithsonian grounds	6,940 00
Repairing fence around that portion of the wall, &c., Smithsonian Institution	1,500 00
Construction of a jail in the District of Columbia	30,856 38
Making the necessary repairs of a jail in Washington, District of Columbia	389 97
Support of a penitentiary in the District of Columbia	56,888 30
Purchase of a site for the insane of the District, &c	149,584 00
Support, clothing, and medical treatment of the insane, &c	753,500 00
Continuation of the wall inclosing the grounds of the Insane Asylum	64,372 00
Extension of stables and erection of sheds, &c	4,000 00
Heating and ventilating, &c., Insane Hospital edifice	20,000 00
Furnishing the present hospital continuation for the insane	19,643 00
Fire apparatus for the Insane Hospital	900 00
Grading and planting trees about the Insane Hospital edifice	1,000 00
Books and incidental expenses of the Insane Hospital	500 00
Extension of workshops, &c., Insane Hospital	2,000 00
Furnishing, &c., east wing of the Insane Hospital	28,500 00
Purchase and fencing 56½ acres meadow land, Insane Hospital	6,000 00
Purchase of 150 acres of land with building, lying directly east of the Insane Hospital	23,000 00
Support and maintenance of convicts transferred from the District of Columbia	80,000 00
Pay the interest on sundry sums loaned for Government purposes by the First National Bank of Washington, District of Columbia	5,670 12
Maintenance, &c., of the deaf, dumb, and blind pupils, &c., Columbia Institute	27,758 76
Erecting, furnishing, &c., two additions to the building of the Columbia Institute	190,280 00
Increased supply of Potomac water and erection of tanks, &c., Columbia Institute	5,000 00
Proper inclosure, grading, and improvements of the grounds of Columbia Institute	11,600 00
Erection of a brick barn, carriage house, &c., Columbia Institute	14,500 00
Purchase of a tract of improved land for the Columbia Institute	33,500 00
Support, medical treatment, &c., of transient paupers, &c., District of Columbia	107,999 30
Establishing a house of correction for boys, District of Columbia	12,000 00
Erecting, furnishing, and heating a lodge for colored women, District of Columbia	10,000 00
Support of the Columbia Hospital for women, &c., District of Columbia	45,000 00
Construction of a police telegraph in the city of Washington	15,000 00
Construction of a bridge and market-house in Georgetown, District of Columbia	13,000 00
Removing stables, &c., from the grounds around the Washington Infirmary	4,999 22
Painting, repairing, &c., of eastern portion of City Hall	3,200 00
Purchase of suitable sites for the erection of school-houses in the county of Washington, outside the limits of the cities of Washington and Georgetown	10,000 00

National Soldiers' and Sailors' Orphans' Home	$10,000 00
Construction, &c., of suitable cases to receive the collections of the exploring expedition, &c	10,000 00
Expenses of the transfer of the collections of the exploring expedition	1,000 00
Preservation of the collections of the exploring expedition	51,192 50
Books of records, shelving, &c., for the office of Register of Deeds, &c.	1,500 00
Support of the public green-houses, &c	58,781 16
Reglazing and repairing damages to the green-houses, &c	1,044 16
For a colossal statue of Washington, by Clark Mills	25,000 00
Transporting and placing Mills's statue of Washington on the pedestal, &c	10,000 00
Procuring manure, tools, &c., for the Botanic Garden	32,100 00
Introduction of Potomac water into the Botanic Garden	1,000 00
Purchase and removal of materials, and erecting four green-houses, &c.	2,500 00
For an iron fence around the Botanic Garden	25,057 90
Bridge Tiber Creek, where it runs through the Botanic Garden	60,652 78
To change Tiber Creek, where it runs through the Botanic Garden, into a sewer	28,000 00
Erection of the west wing of the Patent Office building, &c	52,329 86
Erection of the north front of the Patent Office building, &c	257,093 13
Flooring the basement rooms in the old portion of the Patent Office building	6,000 00
Repairing the saloon in the west wing of the Patent Office building	20,000 00
Casual repairs of the Patent Office building	99,349 75
Making cases, &c., in the Patent Office building to receive copyright books, &c	18,400 00
Construction of the cellar of the north front of the Patent Office building into offices, &c	12,000 00
Completing the work on the Patent Office building so far as to preserve the materials already prepared	15,000 00
Furnishing the rooms in the north wing of the Patent Office building and furnishing the same with suitable cases	83,876 64
Erecting new furnaces in the basement in the east wing Patent Office building	15,000 00
Repairing and painting saloon in the old portion of the Patent Office building	25,000 00
Repairs of rooms in the basement of the west wing of the Patent Office building	5,000 00
Construction of the water-closets in the basement of the south front of the Patent Office building	2,000 00
Reconstruct chimneys and flues in the Patent Office building	8,000 00
Finishing the Patent Office building	208,500 00
Fuel and lights for the Patent Office building	98,732 69
Continuation of the Treasury building	4,449,397 98
Annual repairs of the Treasury building	10,000 00
Extension of the General Post Office building	339,366 89
Finish improvements on the west front of Post Office building	5,650 00
Lighting and ventilating the upper portion of the Treasury building	23,911 85
Alteration of the Treasury building	61,787 32
Refitting rear basement rooms of the old Treasury building, &c	11,000 00
Erect a Department of Agriculture on reservation No. 2	100,000 00
Addition to the Public Printing Office, and the necessary presses, &c	59,915 74
To provide temporary accommodation for the State Department	3,000 00
Constructing the necessary water-closets on each floor of Winder's building	3,450 00
Armory for the militia of the District of Columbia	327 00
Completing the Washington aqueduct	1,832,766 29
Purchase of grounds adjacent to Washington arsenal	2,340 33
Improvement of grounds about the hospital and farms	2,000 00
Completing the defenses of Washington	350,611 18
Hospital, Washington, District of Columbia	114,611 55
Navy yard, Washington, District of Columbia	1,256,036 79
Magazine, Washington, District of Columbia	212,198 82
Arsenal, Washington, District of Columbia	78,379 00
Grading and improvements of grounds Department of Agriculture	22,000 00
Heating apparatus, Department of Agriculture	15,000 00
Gas fixtures, Department of Agriculture	2,890 00
Cases for museum, Department of Agriculture	3,880 00
Painting walls, &c., Department of Agriculture	6,255 00

Purchase of furniture, fitting up laboratory, &c., Department of Agriculture	$12,500 00
Repairs of the Long Bridge	59,999 92
Taking down and rebuilding, &c., southwest span, &c., Long Bridge	3,247 54
Repairs of the Potomac, Navy Yard, and Upper bridges	82,544 66
Complete the bridge across the Potomac at Little Falls	4,955 84
Repairs of the Navy Yard bridge	36,000 00
Repairs of the bridge across the Potomac at Little Falls	34,010 00
Repairs of the Potomac bridge	13,000 00
Removal of the foot bridge on Maine avenue to Third street west	375 00
Construction of a wooden bridge, &c., across the canal in the line with Maine avenue	1,875 00
Purchase and repairs of tools for the public grounds	6,750 00
Public reservation No. 2 and Lafayette Square	27,863 00
Continuing the grading and planting with trees the unimproved portion of the Mall	2,500 00
Purchase of trees and tree-boxes, &c., for the public grounds	37,000 00
Hire of carts for the public grounds	19,757 50
Purchase of manure for the public grounds	4,000 00
Repairs of Pennsylvania avenue	69,600 00
Cleaning out the sewer traps on Pennsylvania avenue	4,300 00
Erecting cast-iron lamp-posts, &c., western terminus of Pennsylvania avenue through Bridge and High streets, Georgetown	810 00
Complete and revise the grades of the city of Washington	1,750 00
Laying down gas-pipes, &c., at Four-and-a-half, Seventh, and Twelfth streets, &c	6,000 00
Lighting with gas Four-and-a-half, Seventh, and Twelfth streets across the Mall	4,000 00
Curbing and paving foot-walk, gutter, &c., south side of Missouri avenue from Third to Sixth streets west	1,939 37
Inclosing the circle, &c., Pennsylvania avenue, with wrought-iron rail fence	9,018 47
Grading and gravelling B street south from Seventh to Fourteenth streets	7,979 50
Improvements of avenues, streets, &c., in Washington	375,041 57
Repairing Delaware avenue north of C street south	1,000 00
Paying one-half the expenses of sewer traps intersection of Fourth street west and E street north	200 00
Making improvements provided for in the thirteenth section of the city charter	5,000 00
Lighting Maryland avenue west to Sixth street south, with gas, &c	15,000 00
Repairs of culvert on New Jersey avenue	500 00
Improvement of B street south from Sixth to Seventh streets west, Maine avenue, &c	6,940 00
Iron seats for the public grounds	1,000 00
Painting iron fences of the public grounds	8,500 00
Hauling manure for the public grounds	8,000 00
Repairing gates to the iron fence around Lafayette Square	5,000 00
Repair and whitewash the wooden fences around the several reservations.	1,000 00
Repairing the arch on New Jersey avenue below the Coast Survey building	1,000 00
Grading East Capitol street and inclosing Lincoln Square	15,000 00
Grading and repairing Virginia avenue	10,000 00
Pay for ashes purchased by the public gardener	125 00
To inclose Franklin Square with a wooden fence and to grade and plant it with trees	6,500 00
Repairing fence around Armory Square	533 00
Improvement of grounds, purchase of plants for garden, &c	2,000 00
Taking up and relaying with stone flagging the brick pavement in front of the War and Navy Departments	19,000 00
Taking care of the circle on Pennsylvania avenue	2,150 00
Continuing the grading and repairing of Virginia avenue	12,000 00
Expenses of opening Sixth street west across the Mall, &c	4,000 00
Improvement of reservations on New York, Massachusetts, Vermont, and Maryland avenues	10,000 00
Further improvement of the circle on Pennsylvania avenue	600 00
Painting the iron fences around Lafayette Square, &c	5,000 00
For new crossings on Pennsylvania avenue	5,000 00
Sewer in the rear of K street between Sixteenth and Seventeenth streets west	2,500 00

Annual repair of fences around the public reservations	$1,000 00
Lighting Four-and-a-half street, Maryland avenue, and Sixth street south	15,000 00
Removing snow and ice from pavements and public walks	1,200 00
For other improvements of Lincoln Square	8,000 00
Continuing the twenty-inch water main from B street north to First street east	10,000 00
Supply a deficiency in payment for materials for gates for Judiciary Square Hospital	868 00
Building an arched roadway over Tiber Creek on North Capitol street	5,000 00
	19,010,838 37

JOHN ALLISON, *Register.*

TREASURY DEPARTMENT,
Register's Office, February 19, 1870.

Appropriations for District for 1870.

House of correction	$12,000 00
Survey for bridge in District of Columbia	3,960 00
Warden of jail	720 00
War Department, for rent, watchmen, laborers, &c	6,000 00
Transient paupers in District of Columbia, (for care and support)	6,000 00
For watchmen and laborers for building corner Seventeenth and F streets	720 00
Government Hospital for Insane	90,500 00
Public works in and around Washington—	
For casual repairs of navy yard and upper bridges	16,000 00
For fuel for President's House	5,000 00
For repairs of furniture of President's House	15,000 00
For reservation No. 2, and Lafayette Square	2,000 00
For care and improvement of grounds south of President's House	2,000 00
For removing snow and ice from public walks	500 00
For manure and hauling the same to public grounds	500 00
For improvement and care of reservations	3,000 00
For iron fences—painting	3,000 00
For inclosing and paving the circle, Vermont and Massachusetts avenues	11,124 00
For iron fence, paving and improving around Franklin Square	25,000 00
For annual repairs and repainting exterior of President's House	10,000 00
For flower pots, mats, &c	1,000 00
For fuel for center building of Capitol	500 00
For ventilation of Senate Chamber	2,500 00
For propagating house	3,000 00
For hire of carts	3,000 00
For hire of three horses and carts, fifty cents per day additional	500 00
For purchase and repairs of tools for public grounds	1,000 00
For purchase of trees and tree-boxes	2,000 00
For annual repairs of fences around reservations	2,000 00
For cleaning out sewer traps	500 00
For lighting President's House, Capitol, &c	40,000 00
For pay of lamp-lighters, plumbing, &c	5,000 00
For contingencies of office of public buildings	1,000 00
For expenses in improvement of streets, &c	20,000 00
For improvement and care of seats and fountains at Capitol	1,000 00
For circular fence around and through President's grounds	10,000 00
For repairs to greenhouse at President's House	2,500 00
For repairs to greenhouse at propagating garden	1,500 00
For taking out private stairway leading from law library	2,000 00
Washington Aqueduct—	
For purchase of roadway from Great Falls	11,200 00
For purchase of roadway across land of William Brook	550 00
For rent and purchase of land at high service	3,300 00
For rent and purchase of land at bridge No. 6	2,640 00
For cleaning out obstructions near the draw	5,500 00
For repairs in tunnel No. 1	1,500 00
For preserving the new tunnel from falling in	20,000 00

For completing and distributing reservoir according to the original plan, slope-wall protection	$30,000 00
For repairing earthen banks and valve gate	5,000 00
For completing the two gate-houses of this reservoir	20,000 00
For arrears of superintendence and repairs to July 1, 1870	4,000 00
For completing work at arch over high-service reservoir	4,000 00
For superintendence and general repairs	12,000 00
For macadamizing top of conduit, now used as the main road to Washington	10,000 00
For use of building by Department of Education	427 78
For superintendent of building occupied by Department of Interior	700 00
For Metropolitan Police	211,050 00
For primary schools of District of Columbia	10,000 00
	645,471 78

The following is a list of the appropriations affecting the interests of the District of Columbia, passed by the third session of the Forty-first Congress, 1871:

For the Government Hospital for the Insane	$125,000
For repair and improvement of the west wing of the hospital edifice	15,000
For building wall along river front	10,000
For support of the institution	45,500
For continuing the work on the inclosure and improving and grading the grounds of the institution	6,000
For necessary expenses in the erection, furnishing, and fitting up of the buildings of the institution, in accordance with plans heretofore submitted to Congress	18,000
For the support of the Columbia Hospital for Women and Lying-in Asylum, over and above the probable amount which will be received from pay patients	15,000
For the National Soldiers and Sailors' Orphans' Home of the city of Washington, District of Columbia, to be disbursed under direction of the Secretary of the Interior	15,000
To reimburse O. Wolf, recorder of deeds, for certain books of record and indexes purchased by him for the use of his office	1,248

For repairs, care, and improvement of public buildings, grounds, and works in the District of Columbia, under the direction of the Chief Engineer of the Army, namely:

For casual repairs of the navy yard and upper bridges	$5,000
For repair of Government water-pipes and fire-plugs on Pennsylvania avenue	5,000
For care and improvement of reservations on New York, Massachusetts, Vermont, and Maryland avenues	15,000
For cleaning out sewer traps along Pennsylvania avenue	1,000
For improving Massachusetts, Connecticut, New York, Maine, Delaware, and New Jersey avenues	25,000
For annual repairs of fences around reservations	2,000
For care and improvement of public reservation number two and Lafayette Square	7,500
For removing snow and ice from pavements and public walks	1,000
For manure, and hauling the same to public grounds and reservations	3,000
For painting iron fences around Lafayette Square, in front of the War and Navy Departments	2,000
For improvement, care, and protection of seats and fountains in the Capitol grounds	2,000
For hire of carts in the public grounds	3,000
For purchase and repair of tools used in public grounds	2,000
For purchase of trees and tree-boxes, and to whitewash tree-boxes and fences	5,000
For purchase of flower-pots, mats, glasses, and twine	1,000
For lighting the Capitol, Executive Mansion, and public grounds	40,000
For pay of lamp-lighters, plumbing, gas-fitting, lamps, lamp-posts, matches, and repairs of all sorts	10,000
For fuel for center building of the Capitol	1,500
For annual repairs of the Executive Mansion	5,000
For refurnishing the Executive Mansion	5,000
For care and improvement of grounds south of the Executive Mansion	5,000
For fuel for the Executive Mansion	3,000
For repair of green-house at the Executive Mansion, and purchase of plants	3,000

For an iron bridge across the canal at Thirteenth street west, and improvement of Monumental reservation	$5,000
For repairs of green-house at Propagating Garden	3,000
For improving Franklin Square, opening and graveling walks, and planting trees and shrubbery	5,000
For improvement of circle at the intersection of Massachusetts and Vermont avenues	6,000
For paving on Pennsylvania avenue and Fifteenth street in front of the property of the United States, in accordance with the law making change of grade	14,792
For paving Pennsylvania avenue in front of the Botanic Garden, from the northwest gate of the Capitol grounds to Third street west, including grading, laying sidewalks, flag footways, re-setting curb, paving, and building sewer, under act of July 8, 1870	25,838

WASHINGTON AQUEDUCT.

For finishing coping and iron railing on bridges number one, two, three, and four	10,000
For widening enbankments over conduit and macadamizing roads	10,000
For completing gate-house at distributing reservoir	20,496
For completing high-service reservoir	4,000
For ventilators over conduit	2,800
For fencing reservoirs	3,600
For building office at Rock Creek bridge	3,300
For engineering, superintendence, and repairs for the fiscal year ending June 30, 1872	20,000
For completing earthwork and making the slope-wall of division dam	20,000
For completing slope-wall of distributing reservoir	20,000

ARMORIES AND ARSENALS.

For Washington Arsenal, Washington, District of Columbia; improving magazine grounds	2,000
For support of Freedman's Hospital and Asylum	78,000
For Treasury Building, Washington, District of Columbia; for annual repairs and improvements	15,000
For protection of Treasury building on Fifteenth street, and repairs of sidewalk	19,816

NEW STATE DEPARTMENT.

For the construction, under the direction of the Secretary of State, on the southerly portion of the premises now occupied by the War and Navy Departments, a building which will form the south wing of a building that, when completed, will be similar in the ground plan and dimensions to the Treasury Building, and provide accommodations for the State, War, and Navy Departments; the building to be of such kind of stone as may be hereafter determined, three stories in height, with basement and attic, and of fire-proof construction; the plans to be approved by the Secretary of State, the Secretary of War, and the Secretary of the Navy, before any money is expended under the provisions of this act	500,000
	1,191,390

	$24,715,552 16
	19,010,838 37
	645,471 78
Total	1,191,390 00
	45,563,251 31

EXHIBIT No. 2.

The following amounts have been expended by the United States from time to time exclusively for the benefit of the District of Columbia:

Payment on account of principal and interest of loan made State of Maryland to the city of Washington	$290,874 84
To aid the directors of the Washington Infirmary to enlarge their accommodations for the benefit of sick transient paupers	20,000 00
Support of insane persons in the District of Columbia, including liquidation and settlement of debts due Maryland for support of insane paupers	30,296 74
Support, clothing, &c., insane paupers District of Columbia	13,828 36
Support and maintenance of insane paupers in the District of Columbia and Baltimore	7,169 75
Support of insane paupers in the District of Columbia	40,029 89
Support, &c., of transient paupers in infirmary	14,250 00
Support, &c., of transient paupers	9,750 00
Maintenance of deaf and dumb, &c., of District in Columbia Institute	1,600 75
Support, &c., of insane of District	20,500 00
Relief of the several corporated cities of the District	1,155,058 29
Reimbursement of the debt contracted by the cities of the District of Columbia assumed by the United States	780,000 00
Loan made to the city of Washington	100,000 00
For the benefit of the city of Washington	70,000 00
Erection of lodge for colored insane, &c	12,020 00
Support of a penitentiary in the District of Columbia	56,888 30
Construction of a jail in the District	30,856 38
Support, medical treatment, &c., of transient paupers, &c., District of Columbia	107,999 30
Erecting, furnishing, and heating lodge for colored women of the District	10,000 00
Support of Columbia Hospital for Women, &c., of District	45,000 00
Construction of a police telegraph in city of Washington	15,000 00
Market house and bridge in Georgetown	13,000 00
Removing stables from grounds around Washington Infirmary	4,999 22
Purchase of sites for school-houses	10,000 00
Hospital Washington City	114,611 55
House of Correction	12,000 00
Support of Freedmen's Hospital and Asylum	78,000 00
Warden of jail	700 00
Transient paupers	6,000 00
Primary schools for District	10,000 00
Hospital for women lying in, &c	15,000 00
	3,085,553 17

There has also been expended for bridges, Pennsylvania avenue, and water-works, the following sums:

For bridges in the city and District	$665,562 91
Pennsylvania avenue	463,223 50
Washington Aqueduct	3,352 931 08

A very large amount has in addition been expended upon other avenues and streets.

EXHIBIT No. 3.

States and Territories grouped into Gulf, Western, Eastern, Atlantic, and Central.

	Population.		Percentage.	
	1870.	1860.	Increase.	Decrease.
GULF STATES.				
Alabama	996,988	964,201	3.5	
Arkansas	483,179	435,450	11.	
Louisiana	727,050	708,002	2.8	
Mississippi	834,170	791,305	5.5	
Texas	797,500	604,215	32.	
Total	3,838,887	3,503,173	9.58	
WESTERN STATES AND TERRITORIES.*				
California	560,285	379,994	47.5	
Nevada	42,491	6,857	519.7	
Oregon	90,922	52,465	73.4	
Arizona	9,658			
Colorado	39,706	34,277	15.9	
Dakota	14,181	4,837	193.2	
Idaho	14,998			
Montana	20,594			
New Mexico	91,852	93,516		1.8
Utah	86,786	40,273	115.6	
Washington	23,901	11,594	106.2	
Wyoming	9,118			
Total	1,004,492	623,813	61.	
EASTERN STATES.				
Connecticut	537,418	460,147	16.8	
Maine	626,463	628,279		.29
Massachusetts	1,457,351	1,231,066	18.4	
New Hampshire	318,300	326,073		2.4
Rhode Island	217,356	174,620	24.5	
Vermont	330,552	315,098	5.	
Total	3,487,440	3,135,283	11.2	
ATLANTIC STATES.				
Columbia, (late District)	131,706	75,080	75.5	
Delaware	125,015	112,216	11.5	
Florida	187,751	140,424	33.8	
Georgia	1,195,077	1,057,286	13.	
Maryland	780,894	687,049	13.7	
New Jersey	905,794	672,035	34.8	
New York	4,362,834	3,880,735	12.5	
North Carolina	1,069,401	992,622	7.8	
Pennsylvania	3,519,601	2,906,215	21.1	
South Carolina	728,000	703,708	3.5	
Virginia	1,224,947	1,219,630	.43	
West Virginia	442,032	376,688	18.3	
Total	14,673,052	12,813,688	14.5	
CENTRAL STATES.				
Illinois	2,539,638	1,711,951	48.4	
Indiana	1,673,941	1,350,428	23.9	
Iowa	1,191,720	674,913	76.6	
Kansas	362,872	107,206	238.5	
Kentucky	1,321,001	1,155,684	14.4	
Michigan	1,184,296	749,113	58.1	
Minnesota	435,511	172,023	153.2	
Missouri	1,717,258	1,182,012	45.6	
Nebraska	123,000	28,841	326.5	
Ohio	2,662,333	2,339,511	13.8	
Tennessee	1,258,288	1,109,801	13.4	
Wisconsin	1,055,167	775,881	36.	
Total	15,525,025	11,357,364	36.7	
Total United States	38,528,896	31,443,321	22.5	

* Changes in territorial boundaries not taken into account.

RECAPITULATION.

Gulf States	3,838,887
Western States and Territories	1,004,492
Central States	15,525,025
Total	20,368,404

Population of the twenty leading cities of the United States, censuses 1870 *and* 1860, *with per_ centage of increase.*

No.	Cities.	1870.	1860.	Per cent.
1	New York	942,252	805,658	16.95
2	Philadelphia	674,022	565,529	19.2
3	Brooklyn	396,300	266,661	48.7
4	St. Louis	310,864	160,773	93.4
5	Chicago	298,983	109,260	173.7
6	Baltimore	267,354	212,418	25.9
7	Boston	250,526	177,840	40.9
8	Cincinnati	216,239	161,044	34.3
9	New Orleans	191,322	168,675	13.5
10	San Francisco	149,482	56,802	163.2
11	Buffalo	117,715	81,129	45.1
12	Washington	109,204	61,122	78.8
13	Newark	105,078	71,941	46.1
14	Louisville	100,753	68,033	48.1
15	Cleveland	92,846	43,417	113.9
16	Pittsburg	86,235	49,217	75.3
17	Jersey City	81,744	29,226	179.7
18	Detroit	79,580	45,619	74.5
19	Milwaukee	71,499	45,246	58.1
20	Albany	69,422	62,367	11.4

EXHIBIT NO. 4.

The following statements of the officers of the Government show the demand for rooms and the rents paid annually for public use:

TREASURY DEPARTMENT,
Washington, D. C., February 27, 1871.

SIR: I am directed by the Secretary to reply to your note in relation to the rent paid for offices by the several Departments in this city.

The rent paid by this Department I will give you at once, but that for the other Departments it will take some time for us to prepare. At present we are renting but one building for the use of the Treasury Department, known as the McKean Building, corner of Seventeenth street and New York avenue, for which we pay a monthly rental of $100. Under the act organizing the Department of Justice, it was made my duty to provide rooms for the accommodation of the additional officers provided for in that law, and for this purpose I have rented part of the Hooe building, on F street, between Thirteenth and Fourteenth streets, for which we pay $280 per month. And the Coast Survey Office at $13,000 a year. These are all the buildings which are rented for the accommodation of our Department. Unless, however, some provision is made for the accommodation of the Bureau of Engraving and Printing, it will be necessary for us to rent additional quarters for part of the Third Auditor's Office, and for one other Bureau of the Department, as the present state of this building is so crowded as to render it impossible to accommodate the employés required to do the business. From the 1st of July next it is anticipated that we will be compelled to rent the building now being [erected for the Freedmen's Savings Institution, for which they ask an annual rental of $7,500.

Very respectfully,

J. H. SAVILLE, *Chief Clerk.*

Hon. JOHN COBURN,
Chairman of Committee on Public Expenditures.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., March 1, 1871.

SIR: In compliance with the request contained in your letter of the 27th instant, I have the honor to inform you that this Department pays the following sums for rent

of nine buildings, now occupied by the clerical force of the Bureaus of this Department, viz:

For the use of the Pension Office:

Building corner of Eighth and G streets	$9,000
Building numbered 707 G street	1,600
Building numbered 711 Eighth street	880
Building numbered 709 G street, for the joint use of the Pension Office and Bureau of Education	1,800
Total	13,280

The rent of these buildings is paid out of an appropriation for additional rooms for the use of the Department of the Interior. (See page 302, Statutes at Large, 1870.) In addition to the above, there are five buildings rented for the use of the clerical force of the Census Office, viz:

Three buildings on Eighth street between G and H streets, renting for	$5,400
One building on Eleventh street, (No. 521)	900
One building on Eighth street, (No. 512)	1,500
Total	7,800

The rent for these buildings is paid out of the appropriation for taking the ninth census. Total number of rented buildings, 9; total number of rooms, 143; total rent paid for nine buildings, $21,080.

I would also respectfully inform your honorable committee that of these nine rented building but one is considered fire-proof. The majority of them are ordinary buildings, and are liable to be destroyed by fire, together with the valuable records and documents necessarily placed in them.

The buildings before referred to were all rented by my predecessor except the one on Eighth street, numbered 512, which is used for the benefit of the Census Bureau, and is rented at $1,500.

Very respectfully, your obedient servant,

C. DELANO, *Secretary.*

Hon. JOHN COBURN,
House of Representatives.

WAR DEPARTMENT,
Washington City, March 2, 1871.

SIR: I have the honor to acknowledge the receipt of your letter of the 27th ultimo, asking, on behalf of the Committee on Public Expenditures, to be informed of the amount of rent paid for offices by the War Department and number of rooms occupied in this city.

I inclose a statement showing the amount paid by John Potts, disbursing clerk of the War Department, for rent of offices and number of rooms occupied. Amount paid, $14,000 per annum. Also similar statement of amount paid by the Quartermaster's Department, being $41,180 04 per annum; total, $55,180 04.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

Hon. JOHN COBURN,
House of Representatives.

Statement showing the number of rooms occupied in each of the buildings hired by Captain William Myers, assistant quartermaster United States Army, for offices in this city.

Designation.	Entire No. of rooms.	No. of rooms occupied.	For what purpose.
Building corner of Fifteenth and G streets	59	46	Quartermaster General's office.
Building No. 531 Seventeenth street	10	10	Branch of Adjutant General's office.
Building No. 533 Seventeenth street	9	7	Do.
Building No. 620 Seventeenth street	4	4	Do.
Building No. 720 Seventeenth street	14	14	Do.
Building No. 1704 G street	8	8	Do.
Building No. 1705 G street	9	6	Do.
Building Nos. 1707 and 1709 New York avenue	7	7	Do.
Building No. 1719 G street	10	10	Signal office.
Building No. 616 Eighteenth street	11	11	Dr. Baxter's office.
Building No. 700 Nineteenth street	11	11	Depot quartermaster's office.
	152	134	

$41,180 04 per annum.

I certify that the above is correct.

WM. MYERS,
Captain and Depot Quartermaster.

Statement of the amount of rent paid by the disbursing clerk of the War Department for buildings occupied by Bureaus of the War Department, and the number of rooms in each building.

Building corner of F and Fifteenth streets, 32 rooms, occupied by Paymaster General, owned by W. W. Corcoran, per annum $7,500
Building near Fifteenth street on Pennsylvania avenue, 16 rooms, occupied by Surgeon General, owned by W. W. Corcoran, per annum 3,200
Building corner H and Sixteen-and-a-half streets, 24 rooms, occupied by the Commissary General, owned by heirs of John Gadsby, per annum 3,300

JOHN POTTS,
Disbursing Clerk, War Department.

WAR DEPARTMENT, *March* 1, 1871.

TREASURY DEPARTMENT,
Washington, D. C., March 4, 1871.

SIR: In compliance with your verbal request of yesterday, I have obtained the information from the Navy, State, and Post Office Departments, in relation to the buildings rented by them in this city, and I herewith inclose their letters.

Very respectfully,

J. H. SAVILLE, *Chief Clerk.*

Hon. JOHN COBURN, M. C.

DEPARTMENT OF STATE,
Washington, March 4, 1871.

DEAR SIR: This Department is now paying rent for the building it occupies at $15,000 per annum; for a house opposite, used principally for storage, $750 per annum; for the house No. 1412 H street, used by the Mexican Commission, at $3,000 per annum.

Very respectfully, yours,

R. S. CHEW, *Chief Clerk.*

J. H. SAVILLE, Esq.,
Chief Clerk, &c.

NAVY DEPARTMENT, *Washington, March* 4, 1871.

MY DEAR SIR: I have to inform you, in answer to your inquiry of this date, that the Navy Department is paying at the rate of $3,020 per annum for buildings occupied (in Washington) by its officers.

Very respectfully, &c.,

HOLMES E. OFFLEY, *Chief Clerk.*

J. H. SAVILLE, Esq.,
Chief Clerk, Treasury Department.

TREASURY DEPARTMENT,
OFFICE OF SUPERVISING ARCHITECT,
March 2, 1871.

SIR: I have the honor to transmit the following replies to your questions, which, I believe, cover the entire ground, and I trust will be satisfactory to you:

Answer to question No. 1. The buildings, in my opinion, absolutely needed for the use of the Government in this District at present are, 1st. A new building for the State, War, and Navy Departments, at a cost of $6,000,000, to be expended during a period of five years. 2d. A brick building for the printing business of the Treasury Department, at a cost of about $200,000. 3d. The alterations in the east front of the Treasury Department made necessary by the recent changes in the grade of Fifteenth street, at a cost not to exceed $100,000. 4th. An addition to the Government Printing Office, at a cost not to exceed $100,000.

In addition to these, in my judgment, it would be well for the Government to erect a building for the Department of Justice and the United States courts, at a cost not to exceed $2,000,000. This would restore to the Treasury Department the rooms now occupied by the Attorney General, and would make it unnecessary to extend the Capitol. This is, in my opinion, much cheaper and more desirable than extending the east front of the Capitol, and I also believe that it would provide the additional accommodations so much needed by Congress in the cheapest manner, as the space now occupied by the court rooms in the Capitol could then be used for the business of Congress.

Answer to question No. 2. As regards this question, I believe that within twenty years public sentiment will demand a new Executive Mansion, though the erection of such a building would not be considered a necessity in any other point of view, the present one being a substantial and durable structure; though undoubtedly rather small.

I am also of the opinion that the Post Office Department will require additional space before twenty years shall have elapsed, in which case it can readily be provided by the addition of an attic story, which, if properly designed, would add greatly to the architectural appearance of the building. The cost of such an addition would probably not exceed $1,000,000.

Beyond these I know of no other buildings that the necessities of the Government would require in this city, though I should be glad to see the improvements I have suggested on the east front of the Treasury carried out, which, as explained in my previous letter, could not be done for a less sum than $1,000,000. This, however, is not a matter of necessity, but a question of taste, as before stated.

Answer to question No. 3. I am thirty-eight years of age; by profession an architect and engineer; and am at present supervising architect of the Treasury Department.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

Hon. JOHN COBURN,
Chairman Committee on Public Expenditures, House of Representatives.

EXHIBIT No. 5.

ARCHITECT'S OFFICE, U. S. CAPITOL EXTENSION,
Washington, D. C., February 6, 1871.

SIR: In reply to yours of the 4th instant, requesting a statement of the contemplated additions proposed in the completion in the United States Capitol and grounds, and the cost thereof, I have the honor to submit the following. In order to make an architectural unity of the eastern front, and to get the additional rooms required for public business, it is absolutely necessary to extend that front in advance of the line of the wings. By so doing the dome, the base of which now overhangs the eastern wall, will be placed in its right position, and the central portico will be made the most prominent feature in the principal front.

The time will soon be at hand when it will be necessary to find more room for the Congressional Library, to obtain which it has been suggested that the portico of the central portion of the eastern front be extended and finished with a pediment.

The costs of these additions should not exceed $2,000,000. In the matter of the extension and improvement of the grounds, I am of the opinion that the expenditure of $1,000,000 will be pay for the land to be acquired, and for all the filling, grading, paving, planting, and fencing.

Very respectfully, your obedient servant,

EDWARD CLARK, *Architect.*

Hon. JOHN COBURN,
Chairman Committee on Public Expenditures.

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41ST CONGRESS, 3d Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 53.

WILLIAM AND MARY COLLEGE, VIRGINIA.

MARCH 3, 1871.—Ordered to be printed and recommitted.

Mr. ARNELL, from the Committee on Education and Labor, made the following

REPORT.

The Committee on Education and Labor, to whom was referred the petition of President Ewell and others, of William and Mary College of Virginia, report thereon as follows:

The college of William and Mary, which is now asking Congress for aid, is nearly two centuries old, and is in age next to Harvard; indeed, its germ was planted in Virginia before Harvard existed, and before the Pilgrims landed. In wealth, it was in 1776 without an equal in the colonies. In respect to its national character, and to the distinguished names on its roll of graduates, it may be called the Harvard or Yale of the South. Thomas Jefferson, James Monroe, Chief Justice Marshall, Peyton Randolph, Edmund Randolph, Judge Bushrod Washington, John Randolph of Roanoke, Winfield Scott, John J. Crittenden, and many other men of mark, were among its alumni. George Washington received his diploma of surveyor from its faculty, and was, for the last ten years of his life, its chancellor. Its influence in forming the character of the men who were the pride of the nation, as well as of the Old Dominion, is undoubted. The Revolution took from it most of its endowments, including the charity of Robert Boyle. Its buildings were seriously injured during the campaign before Yorktown in 1781. In 1859 its main building was entirely destroyed by fire, and had scarcely been rebuilt, when it was again burned during the occupation of Williamsburg by the Union forces—described by General Meade as "one of those deplorable acts of useless destruction which occur in all wars." Subsequently other houses and other property were destroyed—the whole valued under oath at $69,000—all by Union soldiers. The proof of this, consisting of the affidavits of eye-witnesses, is full and convincing. Its losses during the rebellion are believed to be greater than those of the collegiate institutions of the South combined, except two which were under active military organizations. As an innocent victim of the rebellion, and a claimant of your sympathy, because of its revolutionary losses, it petitions Congress for help. The legislature of Virginia, without regard to party, and the executive of the State, unite in the petition. The people of the State feel deeply interested in its success.

The President and other Government officers of the highest rank, some of the most distinguished of those connected with the leading institutions of the North, and the friends of education everywhere, generously commend the cause of this college to favor.

This college is now affording all the help its limited means will allow

to the impoverished young men of the State who are seeking an education.

Because of its old name and national fame, its losses of endowment when American independence was established, and when Virginia ceded to the United States the northwestern territory; because institutions of learning ought to be respected in war, and more especially one the object of which was to save and restore, not to destroy; because of its excessive losses, seriously impairing its capacity for future usefulness, unless aid is afforded; because of the great importance of assisting, in every proper way, the educational interests of the South; and because of the widespread wish throughout the country to see this old historic landmark restored to efficiency, an appropriation is recommended. Therefore,

Resolved, That the sum of $65,000 be, and is hereby, appropriated out of the Treasury of the United States for the benefit of William and Mary College of Virginia.

Remarks of Professor Benjamin S. Ewell, President of the college of William and Mary, in support of the petition of the visitors and faculty of the institution to Congress for aid, made January 30, 1871.

May it please you, Mr. Chairman and gentlemen of the committee, [Education and Labor, House of Representatives:] The petition of the visitors and faculty of the College of William and Mary, and the accompanying letters and affidavits, explain so clearly the appeal made to Congress on its behalf, that I do not think it necessary to trespass further on your time than to call your attention to some of the points made in the memorial, and to mention some additional facts. And, first, let me allude briefly to the origin and early history of this institution.

Its germ was planted in the colony of Virginia as early as 1619, before Plymouth Rock received the Pilgrims, and was uprooted and destroyed by the Indian massacre of 1622. Owing to the disturbed condition of the mother country, culminating in civil war and the dethronement and execution of Charles I, and the discontent in the colony, due to the arbitrary and tyrannical course of the royal governor, Sir William Berkeley, which caused Bacon's rebellion, during which Jamestown, the then capital of the colony, was besieged, captured, and burned, no serious attempt to reëstablish the college was made till after the revolution of 1688; and as an "offspring of this revolution, its sons were the warm and enthusiastic advocates of that of 1776."

In 1693 the English sovereigns, William and Mary, chartered and richly endowed the college of William and Mary; and it is believed to be the only college in the United States that received a strictly royal charter. From 1693 to the beginning of the revolutionary war, it was the constant recipient of substantial favors from the kings, lords, and commons of England. Its charter gave it a duty of one penny a pound on tobacco exported from the colonies of Virginia and Maryland, and made it surveyor general of the Territory of Virginia, in virtue of which the selection and appointment of all deputy surveyors were vested in the college, with the right to a part of their fees. Thus George Washington, in one sense an alumnus of the institution, (for in its halls he was given his diploma as surveyor, after an examination by its professors,) Zachary Taylor, grandfather of the President of the same name, Peter Jefferson, father of Thomas Jefferson, and a little later Thomas Jefferson himself, were among those appointed surveyors. From these and other sources, a large and constantly increasing revenue was derived till 1776; then it was the richest college in America, and there was every prospect of its remaining so. Harvard was, up to this time, its pensioner; the Boyle fund being held in trust by William and Mary on condition of the annual payment of ninety pounds sterling to Harvard. Well might these institutions, the oldest on the continent, exclaim, in view of their past and present relative condition, "*Tempora mutantur et nos mutamur in illis.*"

The war which established American independence reduced William and Mary to comparative poverty, by depriving it of the export duty on tobacco and the Boyle fund; while the cession by Virginia of the Northwestern Territory rendered the office of surveyor general, which it held till 1817, profitless. Its buildings, during and after the siege of Yorktown in 1781, were occupied as hospitals by the French and Americans, and, while thus occupied, were much damaged by fire. The French government rebuilt or repaired at once the buildings injured while in possession of its soldiers; no compensation has ever been obtained for the damage done by the continental soldiers,

though applications have been made to Congress, the last in 1854, when a petition with the necessary proofs was presented to the Senate of the United States, and referred to a committee of that body. If these losses of chartered rights and of property, the direct consequence of the revolutionary struggle, and the further losses resulting from the cession by Virginia of an empire of territory, do not establish a legal claim, they surely warrant an appeal to your sympathy and good-will. For this reason they are mentioned.

But the college did not remain an idle spectator of the events of 1776 and the following years. It entered actively into the contest, furnishing to it the author of the Declaration of Independence, who first proclaimed that the motto of free America ought of right to be, "Universal emancipation and universal education;" the president of the first American Congress, five signers of the Declaration, and a large number, besides, of devoted patriots and soldiers. It has since given three Presidents to the United States, one (the first) chief justice, the first attorney general, one general-in-chief of its armies, and others distinguished as statesmen, jurists, and soldiers. Excepting Harvard and West Point, it has gone beyond all of our literary institutions in its national character and services.

After the Revolution it continued its educational functions with good success, till, in 1859, it lost, by an accidental fire, its main building, planned by Sir Christopher Wren, and erected nearly two centuries before, with a valuable library and apparatus. "When this building was erected," to adopt the language of a distinguished statesman and alumnus of the college, "it looked out upon a country in the early infancy of settlement, containing a population not greater than that which at this day is found in the smallest State of the Union. It beheld that population expanding over regions bounded by two great oceans, to be counted by millions, in place of the scattered thousands of that day. It has seen the colonies shake off the badges of puberty and put on the *toga virilis*. It saw the Congress before and after it had assembled under the articles of confederation, and those articles substituted by the Constitution under which it is now our happiness to live. It reëchoed the words of the forest-born Demosthenes in 1765, asserting the rights of America to be 'natural, constitutional, and chartered;' and in thunder tones, at an after-day, its walls resounded to the words, 'Liberty or Death,' uttered by the same eloquent lips. Under the influence of its teachings, its students threw aside their volumes, and girded on the sword to do battle in the great cause of liberty. The silver-toned voice of Philosophy heard within its walls has been ofttimes hushed by the clangor of drums and trumpets. At one time it gave reluctant shelter to the British troops as they passed on to Yorktown; and soon after its gates were opened wide to give willing and exultant reception to the troops with their tattered banners which followed Cornwallis to his last retreat. Its walls were alternately shaken by the thunder of the cannon at Yorktown and the shouts of the noble bands who fought and conquered in the name of American independence. The boy had gone forth with the surveyor's staff, which it had placed in his hands, into the wilderness of the West, and now returned the hero and the conqueror, and once more stood within its walls surrounded by the chivalry of France and America, wearing on his brow imperishable laurels, and making the name of Washington foremost on the rolls of fame."

In 1860 the losses by the fire of 1859, as well in building as in library, apparatus, and furniture, were fully restored, and there was every indication of a long career of prosperity and usefulness.

To quote from a recently published historical sketch of the college: "Early in May, 1861, the existence of actual war at its very threshhold [it is distant from Fort Monroe about thirty-five miles] rendered it necessary to suspend academic exercises, and to close its doors." The building was immediately seized by the military, and used first as a barrack and next as a hospital, until the evacuation of the Peninsula in May, 1862.

Williamsburg is, to a force holding the James and York Rivers, the key of the lower portion of the Peninsula. The tides ebb and flow in deep creeks, flanked by impassable morasses, within a mile of the town. The position is a narrow gorge, where the roads, from above and below, converge. It was therefore held as an important post, by the United States forces, till the close of the war. At times, however, it was contended for by the opposing troops. After a conflict, on the 9th of September, 1862, between the garrison and a body of South Carolina cavalry, the latter got possession of the place, and held it a few hours. After their withdrawal, returning stragglers of the garrison, provoked by defeat, and under the influence of drink, fired and destroyed the main building, with furniture and apparatus, while in a state of disorder and disorganization. At later periods all the remaining houses on the college premises, with the inclosures, were burned or pulled to pieces wholly or in part.

The buildings not destroyed and the grounds were held by the Union troops from May, 1862, to September, 1866, for depots and for other purposes; of all of which there is full proof in the papers filed with the petition. In relation to this, General Meade writes: "I am satisfied, on examination of the facts of the case, that the destruction of the buildings of William and Mary College by our troops was not only unnecessary and unauthorized, but one of those deplorable acts of useless destruction which occur

in all wars. In this view, and believing that its reconstruction under the direction and superintendence of Professor Benjamin S. Ewell will tend to cement and strengthen the bonds of union, and to give encouragement to the growth and spreading of sound Union principles, I take great pleasure in recommending the appeal of Professor Ewell to all those who may have the means and the disposition to assist him in the good work in which he is engaged. Professor Ewell's protest, recently published, against sectional text books, is evidence of his views on this important question of education."

But notwithstanding this and other outrages, greatly to be deplored, I feel rejoiced that as an eye-witness of many of the events of the war, as well in the West as in the East, I can testify that no war of equal or approximate magnitude and duration was ever waged in which the outrages were fewer; and in this I am sustained by the opinion of one of our most accomplished students of military history, General Joseph E. Johnston. That this should have been so, while engaged in a fierce civil war, is to the infinite honor of the American people.

Colonel Robert W. Hughes, the former able and accomplished editor of the Richmond State Journal, in a recent letter to the Hon. Charles H. Porter, writes that "a memorial, signed by the governor and all the members of the legislature, without distinction of party, has gone to Congress asking aid for the ancient college of William and Mary;" and that "the profoundest sympathies of our Virginia people are enlisted in the fortunes of this historical corporation, and we shall look with fond and earnest solicitude to the action which Congress shall take upon this memorial of our legislature. * * During the war of independence the buildings of William and Mary were repeatedly occupied by British troops. They were in every instance respected as sacred to the cause of letters, and left intact. After the close of the war Louis XVI, the ally of America, caused the buildings accidentally destroyed by his troops to be replaced, and every injury to be repaired, doing royal homage to the sacred cause of learning.

"In 1865, when General Sheridan passed through Charlottesville, the seat of the University of Virginia, he detached a faithful guard to protect the institution from all injury; and the fact is recorded to his enduring honor upon the archives of the university. Thus this noble institution, which Thomas Jefferson gave to his country, was fortunately preserved, although the more venerable college which gave him to America had fallen a victim to the Moloch of war.

"With such conspicuous examples of homage to learning, from kings and heroes, presented by the history of these two learned corporations of our State, I cherish the loyal belief that it will be only necessary to bring the facts of this case to the attention of Congress to secure from that body the action which is prayed for in the memorial to which I have referred. I refer you to the letters of Generals Grant, Sherman, Butler, Meade, McClellan, Schofield, Burnside, Chief Justice Chase, and of the Rev. Dr. Tyng, and the Rev. Henry Ward Beecher, generously commending the cause of this college to public favor."

The people of Virginia, their legislature, their executive, and the friends of education, and the educators everywhere, unite in this petition, not making a legal claim, but as the Union armies went to save and restore, not to destroy, asking that you aid in healing the wounds of war by restoring this ancient college to usefulness. No institution of learning in the South lost so much by the civil war, by actual destruction of property, by long suspension, and consequent inability to resume its exercises when peace was declared; save two, perhaps, the students of which, armed and organized as such, were actively engaged in the field in resisting the armies of the United States. Indeed, so far as my information extends, the losses of the college of William and Mary quadruple those of all other southern colleges combined, with the exceptions just mentioned.

Apprehensions have been expressed that if the prayer of this petition be granted a precedent would be established, justifying and encouraging large demands on the Treasury.

If my statement, as to the extent of damages by Union troops to colleges, be approximately correct, no great depletion of the Treasury could follow. But, remembering the losses of the college, when the United colonies fought and won freedom's battle, and when Virginia gave more States to the Union than framed the Constitution, and, further, its national character, I assert that a precedent could not thereby be established, for the case is *sui generis*, and has, and can have, no parallel.

Colonel Hughes, in his letter before referred to, says: "There has been no period in the history of the State in which the cause of education has so largely engrossed the thoughts of our people as at present; in which the necessity of making education as universal as the suffrage was more generally acknowledged, more apparent, and more urgent; and in which, unfortunately, the people were less able than they now are to accomplish the general desire in this important direction. To look over the State at the extent of ignorance prevailing among both races; to observe the magnitude of the work needed to be done; and to contrast this with the feebleness and paucity of our means for performing the task before us, fills the hearts of many of our most enlightened men with dismay."

In all this there is, I regret to say, no exaggeration. As an illustration of the extent

of ignorance among the whites, I will mention that last summer, in one of the oldest counties of Virginia, seven out of twelve of a jury of inquest, composed of grown white men, had to make their marks because they could not write their names. Without some outside help, and that speedily given, the rising generation will be more ignorant than the present. As a general thing both races eagerly look forward to the time when, through free schools, they may see their children getting what they themselves are too poor to give them, an education.

The college of William and Mary has been and is doing its part to remove this reproach. It has, notwithstanding crippled and diminished resources, and ruinous buildings, educated gratuitously, since the close of the war, upward of two hundred unable without such help to get an education. At the present time out of eighty pupils not less than one-half are admitted without charge.

Until 1776 the British government was the patron and benefactor of this college. Now an opportunity is afforded to bind it to the Government of the United States with enduring ties of gratitude and affection. If it be true, as is declared by one of the leading newspapers of this city, that some of the educational institutions of the South are nurseries of treason, how important does it become to cherish and nurture loyalty and love of the Union in such, whenever practicable; and the opportunity becomes doubly valuable, when a time-honored, well-established college like this is in question. Ten times the sum needed to give William and Mary power and efficiency might be expended in founding a new institution without a proportionate beneficial result.

I will conclude with another quotation from the historical sketch before mentioned:

"Surely those hallowed walls in which the calm voice of philosophy has for so many generations been heard, will not be allowed to stand, a blackened monument of the ravages of war, and a reproach to our age and people. On the contrary, new and more beautiful temples will arise to receive and welcome the genius of education, and to foster that philosophy and those arts and sciences the achievements of which it is the glory of a nation to honor as the noblest victories of peace."

Account in detail of damages to houses and other property of the college of William and Mary, at Williamsburg, Virginia, from May, 1862, till the close of the war, 1865, by United States soldiers.

Main college building, 140 feet by 100 feet, including wings, set on fire and destroyed, valued at	$40,000
A house—professor's dwelling, with outhouses, burned	5,000
College furniture and apparatus, all new, burned	6,000
The Brafferton, or Boyle house, and outhouses, pulled to pieces	5,000
College library, books taken, 4,000 volumes, some valuable	6,000
Devastation of grounds and inclosures destroyed	4,000
A house, partly pulled to pieces, all outhouses entirely so	3,000
	69,000

DISTRICT OF COLUMBIA, *County of Washington, ss:*

On this 31st day of January, 1871, personally appeared before me, a notary public within and for the district and county aforesaid, Benjamin S. Ewell, president of the college of William and Mary, and made oath that the above estimate of the value of the property of the college destroyed during the late civil war by United States soldiers is, to the best of his knowledge and belief, moderate and reasonable; that having superintended the construction of much of the property so destroyed, and been the disbursing agent of the college, he has had means of knowing the cost of such work; and further, that the property herein mentioned belonged to the college, and was destroyed by Union troops, as is set forth in the affidavits, to be found among the papers marked A, B, C, &c., and filed with the petition of the college to the Congress of the United States.

Sworn to and subscribed before me this 31st day of January, A. D. 1871.

FREDERICK KOONES,
Notary Public.

[SEAL.]

BSB Bayerische StaatsBibliothek
MDZ Münchener DigitalisierungsZentrum Digitale Bibliothek

House documents

Bd.: [266,f.] 1870/71 = Congress 41, Sess. 3

Washington, DC 1871
Am.b. 3040-266,f
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